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HONORABLE WILLIAM BARR
ATTORNEY GENERAL
DEPT OF JUSTICE
10TH ST & CONSTITUTION NW
WASHINGTON DC 20530-0002

DOJ EXECUTIVE SECRETARIAT CROSS-REFERENCE RECORD



CONTROL NUMBER: 92052708158

NEWMAN, CONSTANCE BERRY, Dir-OPM

THE ENTIRE DOCUMENT PACKET FOR THE CONTROLLED
CORRESPONDENCE INDICATED BY THE ABOVE EX.SEC.
CONTROL NUMBER HAS BEEN FILED IN THE FOLLOWING
PRIMARY FILE LOCATION WITHIN THE SUBJECT FILES
OF THE ATTORNEY GENERAL.

PRIMARY FILE: CONFERENCES

18 MAY 92

OPM

18 MAY 92

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: NEWMAN, CONSTANCE BERRY, DIRECTOR, OPM
To: HEADS OF DEPTS. AND INDEPENDENT AGENCIES (AG.) ODD: NONE
Date Received: 05-27-92 Date Due: NONE Control #: X92052708162
Subject & Date

05-18-92 MEMO REGARDING HISTORICALLY BLACK COLLEGES AND
UNIVERSITIES (HBCU) EXECUTIVE COMMITTEE INITIATIVES. THE
PURPOSE OF THIS COMMITTEE IS TO DEVELOP A BLUEPRINT FOR
ACTION FOR FEDERAL AGENCIES IN IMPLEMENTING SECTION 11 OF
EXECUTIVE ORDER 12677 AND TO MONITOR PROGRESS. ADVISES THAT
DIRECTORS OF PERSONNEL, CIVIL RIGHTS, AND EEO WILL SOON
RECEIVE A MEMO ANNOUNCING THE INCEPTION OF THE HBCU EXEC.
COMMITTEE AND TRANSMITTING THE PROPOSED HBCU STRATEGIES. **

Referred To: Date:		Referred To: Date:		
(1)	JMD;FLICKINGER 05-27-92	(5)		W/IN:
(2)		(6)		
(3)		(7)		PRTY:
(4)		(8)		1
INTERIM BY:		DATE:		OPR:
Sig. For: JMD		Date Released:		MAU

Remarks

** THEY WILL BE ASKED TO COMMENT ON THE PROPOSED ACTION
PLANS AND ALSO BE INVITED TO A MEETING ON JUNE 17, 1992,
TO GET AN OVERVIEW OF THE PROPOSAL AND TO PROVIDE INPUT.
ENCOURAGES SUPPORT OF THE FINAL PLANS FOR ACTION, WHICH
WILL BE TRANSMITTED UPON THEIR COMPLETION.
INFO CC: OAG, DAG, ASG, CRT.
(1) FOR APPROPRIATE HANDLING.

Other Remarks:

KMM 5/28/92

✓ FILE: OFFICE OF PERSONNEL MANAGEMENT
J920527 2064

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY



OFFICE OF THE DIRECTOR

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

MAY 18 1992

RECEIVED
DEPT. OF JUSTICE
'92 MAY 27 A10:36

MEMORANDUM FOR HEADS OF DEPARTMENTS AND INDEPENDENT AGENCIES

FROM:

Constance Berry Newman
CONSTANCE BERRY NEWMAN
DIRECTOR

SUBJECT:

Historically Black Colleges and Universities
(HBCU's) Executive Committee Initiatives

In October 1991, a Historically Black Colleges and Universities (HBCU) Executive Committee was formed. The Committee, which is chaired by the Office of Personnel Management (OPM), is comprised of four HBCU Presidents, five Personnel Directors, the Executive Director of the White House Initiative on HBCU's, and the President of the National Association for Equal Opportunity in Higher Education (NAFEO).

The purpose of this Committee is to develop a blueprint for action for Federal agencies in implementing Section 11 of Executive Order 12677 and to monitor progress. Specifically, section 11 gives OPM the responsibility of working in consultation with the Departments of Labor and Education to improve the recruitment of students and graduates from HBCU's.

Directors of Personnel, Civil Rights, and Equal Employment Opportunity (EEO) will soon receive a memorandum announcing the inception of the HBCU Executive Committee and transmitting the proposed HBCU strategies. The proposed strategies outline action items to improve Federal recruitment techniques, focusing on increasing the representation of minorities in the Federal workforce.

Directors of Personnel, Civil Rights, and EEO will be asked to comment on the proposed action plans. They are being invited to a meeting on June 17, 1992, to get an overview of the proposal and to provide input. Their comments and suggestions will be incorporated into the final strategic and action plans that will be distributed to Federal agencies for implementation.

We encourage your support of the final plans for action, which will be transmitted to you upon their completion. Your support of these Executive order initiatives enables the Federal Government to make significant strides in its efforts to recruit a high quality, diverse workforce.

If you have any questions regarding the strategic plans, please have your staff contact Patricia H. Paige or Helen Lee on (202) 606-0870.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: NEWMAN, CONSTANCE BERRY, DIRECTOR, OPM
To: HEADS OF DEPTS. AND INDEPENDENT AGENCIES (AG.) ODD: NONE
Date Received: 06-05-92 Date Due: NONE Control #: X92060808749
Subject & Date

06-02-92 MEMO ADVISING THAT IT IS IMPORTANT THAT FEDERAL
AGENCIES SEEK OUT OPPORTUNITIES TO RECRUIT AND ADVANCE
HISPANICS. URGES EACH AGENCY HEAD AND THEIR SENIOR
MANAGEMENT TEAM TO WORK CLOSELY WITH THEIR HISPANIC
EMPLOYMENT PROGRAM MANAGER TO DEVELOP RECRUITMENT STRATEGIES
FOR HISPANICS AND TO EXPLORE OTHER OPPORTUNITIES THAT MIGHT
RESULT IN CAREER DEVELOPMENT FOR PEOPLE ALREADY A PART OF
THE AGENCY'S WORKFORCE. **

	Referred To:	Date:	Referred To:	Date:	
(1)	JMD;FLICKINGER	06-08-92	(5)		W/IN:
(2)			(6)		
(3)			(7)		PRTY:
(4)			(8)		1
	INTERIM BY:		DATE:		OPR:
	Sig. For: JMD		Date Released:		MAU

Remarks

** (SEE EXEC. SEC. 92042906589 - CONTROL SHEET ATTACHED.)

INFO CC: OAG, DAG, ASG.

(1) FOR APPROPRIATE HANDLING.

Other Remarks:

KMM 6/8/92

FILE: OFFICE OF PERSONNEL MANAGEMENT
J920608 2235

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

JUNE 92



UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

OFFICE OF THE DIRECTOR

June 2, 1992

'92 JUN -5 P4:02

MEMORANDUM FOR HEADS OF DEPARTMENTS AND INDEPENDENT AGENCIES

FROM: CONSTANCE BERRY NEWMAN
DIRECTOR

EXECUTIVE SECRETARIAT

SUBJECT: Strengthening the Hispanic Employment Program

Hispanic Americans continue to increase in numbers in the Federal workforce and to make valuable contributions to the missions of many Federal agencies. By the year 2000, Hispanic Americans are projected to represent approximately 29 percent of the new entrants into the workforce. Presently, however, they represent only 5 percent of Federal civilian workers and many are in lower graded positions.

It is important that Federal agencies seek out opportunities to recruit and advance Hispanics. OPM is actively involved in many activities to help agencies recruit top quality candidates from the Hispanic population. In addition to developing a close relationship with the National Hispanic Association of Colleges and Universities, we are active on the local and regional level as well. For example, OPM recently entered into an agreement with the Washington Council of Hispanic Employment Program Managers. The purpose of that agreement is to strengthen OPM's working relationship with the Council and to work together to enhance employment opportunities for Hispanics and to help make agencies more aware of the rich talent pool that this important segment of our population represents.

I urge you and your senior management team to work closely with your Hispanic Employment Program Manager to develop recruitment strategies for Hispanics and to explore other opportunities that might result in career development for people already a part of your workforce. All of Government will benefit from those efforts and I strongly encourage your agency's commitment to these goals.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: NEWMAN, CONSTANCE BERRY, DIRECTOR, OPM
To: HEADS OF EXEC. DEPTS. & AGENCIES (AG.)
Date Received: 07-06-92 Date Due: NONE ODD: NONE
Control #: X92070710133

Subject & Date

06-25-92 MEMO REGARDING THE ENCOURAGEMENT THAT THE FEDERAL GOVERNMENT, AS AN EMPLOYER, HAS ALWAYS GIVEN ITS EMPLOYEES TO RESPOND GENEROUSLY TO THE CALLS OF THE RED CROSS, LOCAL BLOOD BANKS, AND MEDICAL CENTERS FOR BLOOD DONORS. SHE URGES THE AG TO REMIND EMPLOYEES OF DOJ'S POLICY ON EXCUSED ABSENCE FOR BLOOD DONATION AND TO ENCOURAGE EACH EMPLOYEE TO CONSIDER THE BENEFITS OF DONATING BLOOD. SHE WOULD LIKE THE AG TO JOIN HER IN RENEWING THEIR SUPPORT FOR THIS PROGRAM.

Referred To: Date:		Referred To: Date:		
(1) JMD;FLICKINGER	07-07-92	(5)		W/IN:
(2)		(6)		
(3)		(7)		PRTY:
(4)		(8)		1
INTERIM BY:		DATE:		OPR:
Sig. For: JMD		Date Released:		EHZ

Remarks

INFO CC: OAG, DAG.
(1) FOR APPROPRIATE HANDLING.

Other Remarks:

OLA CONTACT:

✓ FILE: OFFICE OF PERSONNEL MANAGEMENT
J920707 2671

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

25 June 92



UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

OFFICE OF THE DIRECTOR

JUN 25 1992

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: 
CONSTANCE BERRY NEWMAN
DIRECTOR

SUBJECT: Blood Donation

In the past two decades, medical research has developed astounding procedures, from organ transplants to the reattachment of limbs to the saving of many premature infants. However, there is one constant everyday necessity for all major life-saving procedures--human blood. We are the only source of that miracle fluid for which there is no substitute. Every week, thousands of thoughtful and generous people take some time to give a little of themselves to others who are in need.

The Federal Government as an employer has always encouraged its employees to respond generously to the calls of the Red Cross, local blood banks, and medical centers for blood donors. I urge you to remind employees of your agency's policy on excused absence for blood donation and to encourage each employee to consider the benefit of helping others, perhaps in desperate need of donated blood.

The Red Cross tells us that summer is a time of increased need for blood supplies. Please join me in renewing our support for this essential program for the health of all Americans. A simple procedure that takes less than an hour may mean years of continued life.

EXECUTIVE SECRETARIAT

92 JUL -6 P3

NARA 18-1003-A-003222

UNITED STATES OF AMERICA
OFFICE OF
PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

OFFICIAL BUSINESS
Penalty for Private Use, \$300

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ZIP + 4
20530BARHAGTS085 COM59 1 C04
HONORABLE WILLIAM BARR
ATTORNEY GENERAL
DEPT OF JUSTICE
10TH ST & CONSTITUTION NW
WASHINGTON DC 20530-0002

2 JUL 1979



CON 114-14-6
January 1979

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: BROOK, DOUGLAS A., ACTING DIRECTOR, OPM
To: HEADS OF DEPTS. & INDEPENDENT AGENCIES (AG.) ODD: 12-01-92
Date Received: 08-14-92 Date Due: 12-01-92 Control #: X92081712253
Subject & Date

07-27-92 MEMO ADVISING THAT AGENCIES ARE REQUIRED TO SUBMIT
ANNUAL ACCOMPLISHMENT REPORTS AND PLAN CERTIFICATIONS FOR
THE DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP) AND
THE FEDERAL EQUAL OPPORTUNITY RECRUITMENT PROGRAM (FEORP)
FOR FY 1992 TO OPM ON OR BEFORE DECEMBER 1, 1992. LISTS
PROCEDURES THAT HAVE BEEN IMPLEMENTED BY OPM IN AN EFFORT
TO FACILITATE THE PROCESS.

(NOTE: REC'D IN EXEC. SEC. ON 08-14-92.)

	Referred To:	Date:	Referred To:	Date:	
(1)	JMD;FLICKINGER	08-17-92	(5)		W/IN:
(2)			(6)		
(3)			(7)		PRTY:
(4)			(8)		1
	INTERIM BY:		DATE:		OPR:
	Sig. For: JMD		Date Released: 01-11-93		MAU

Remarks

INFO CC: OAG, DAG, ASG.

(1) FOR APPROPRIATE HANDLING. ADVISE EXEC. SEC. OF ACTION
TAKEN.

01-11-93 JMD REPLIED ON 01-07-93. (TJ)

Other Remarks:

OLA CONTACT:

8/18/92 KMM FYI

FILE: OFFICE OF PERSONNEL MANAGEMENT
J920817 3267

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27
July
92

U.S. Department of Justice

Disabled Veterans Affirmative Action Program (DVAAP)

FY 1992

ACCOMPLISHMENT REPORT



U.S. DEPARTMENT OF JUSTICE
DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP)
ACCOMPLISHMENT REPORT

FISCAL YEAR 1992
OCTOBER 1, 1991 - SEPTEMBER 30, 1992

U.S. Department of Justice
AGENCY

10th Street and Constitution Avenue, NW
Washington, DC 20530
ADDRESS

97,968
NUMBER OF EMPLOYEES COVERED BY THIS PLAN

ARLENE S. HUDSON
Department Selective Placement Program Manager
NAME/TITLE OF PREPARER

Voice:
(202) 501-8745
TDD:
(202) 501-7908
TELEPHONE NUMBERS


TED MCBURROWS

NAME AND SIGNATURE OF THE DIRECTOR
EQUAL EMPLOYMENT OPPORTUNITY STAFF

JAN - 6 1993

DATE


STEPHEN R. COLGATE

NAME AND SIGNATURE OF THE
ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

JAN - 7 1993

DATE

U.S. DEPARTMENT OF JUSTICE
DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM
ACCOMPLISHMENT REPORT

FISCAL YEAR 1992
OCTOBER 1, 1991 - SEPTEMBER 30, 1992

The following methods were developed or expanded during fiscal year 1992 to improve the work force profile of disabled veterans with a special emphasis on veterans with a 30 percent or more disability.

A. RECRUITING METHODS

1. The Department's Office of Information Resources Accommodation for the Disabled (IRAD) continues to provide assistance and support to managers, supervisors, and employees. IRAD sponsored a technology fair during the past year which provided an excellent opportunity for managers to view and participate in demonstrations of various computer and electronic software and hardware, and other adaptive devices to meet the specific needs of an employees.
2. The special guidance attached to the DVAAP Plan Update has proven to be a useful technical assistance for all. The guidance attached to the FY 1993 DVAAP Plan Update has some informational additions and/or modifications so as to enhance this very helpful package. For example, specific information regarding the use of the special appointing authorities has been developed and made a part of this package.
3. Maintained an aggressive recruitment program:
 - a. Continued liaison with the Department of Veterans Affairs (VA) (formerly the Veterans Administration) rehabilitation officers and VA hospitals. Provided information regarding the services of the VA to DVAAP officials.
 - b. Continued to provide to recruitment sources and DOJ managers and supervisors, the list of DOJ Selective Placement Program Managers for the bureaus for referral of applicants and for technical assistance.
 - c. Continued to promote the use of special hiring authorities so as to increase the employment of qualified veterans with 30 percent or more disabilities, on a more accelerated basis.

- d. Continued outreach to solicit the applications of qualified disabled veterans for careers with the Department. Emphasis was placed on veterans with disabilities of 30 percent or more. Methods of outreach included participation in job fairs, campus visits, national conferences of organizations with large or primary constituencies of disabled veterans e.g., The President's Committee on Employment of People with Disabilities, Blinded Veterans Association.

In addition, we utilized professional organizations such as the American Blind Lawyers; advertisements in such publications as the Eclipse magazine - the official publication of the National Association of Black Veterans; and networking with individuals possessing the various job skills relevant to the Department's careers who are willing to make referrals of job ready disabled veteran applicants; (i.e., Paralyzed Veterans of America; Disabled American Veterans; Veterans Employment Service of the U.S. Department of Labor; local veterans employment representatives; Disabled Veterans Outreach Program Specialists; the Office of the Assistant Secretary for Veterans Employment; U.S. Office of Personnel Management; Action; Vietnam Veterans Leadership Program; and the Department of Veterans Affairs).

- f. Continued to utilize the Department's order on access to computer support for employees with disabilities as a method by which managers, supervisors, and hiring officials may provide accommodation to disabled veteran employees.
- g. Developed and provided training to managers, supervisors, DVAAP specialist and employees regarding the DVAAP.

B. METHODS USED TO PROVIDE OR IMPROVE INTERNAL ADVANCEMENT OPPORTUNITIES FOR DISABLED VETERANS

- 1. Trained Selective Placement Program (SPP) Managers for Persons and Veterans with Disabilities from the headquarters and field offices of the eight bureaus headquarters and field offices, most of whom were newly appointed to the SPP.
- 2. The use of persons with disabilities in DOJ recruitment literature was expanded. For example, the Department's attorney and law graduate recruitment brochure "Legal Activities" for the 1992/1993 recruitment season, featured at least two Departmental attorneys with disabilities.

3. Continued to assess accessibility to job sites, and accommodation provided, including safety/evacuation procedures, so that disabled veterans would not be adversely affected in their career progression by such impediments.
4. Developed and reviewed statistical data to ascertain whether or not disabled veterans were progressing in their careers with the Department. Data systems such as Human Resource Management Information Systems (HRMIS), Personnel Pay System (PERSPAY), Central Personnel Data Files (CPDF), and other special data runs containing statistics which focused on a specific area, were used to discern problems, progress, trends, training, promotions, and accessions/losses in personnel. Continued using the data to refine the DVAAP.

C. HOW THE ACTIVITIES OF MAJOR OPERATING COMPONENTS AND FIELD INSTALLATIONS WERE MONITORED, REVIEWED, AND EVALUATED

1. Continued to assess the accomplishments of components/field installations through reports submitted from on-site reviews by Selective Placement Program Managers/Coordinators, or other review teams also from accomplishment reports forwarded for inclusion in the annual DOJ DVAAP submission. The assessments were utilized to provide information regarding the needs of DVAAP and to identify any specific trends.
2. Continued to encourage feedback from disabled veteran constituents about their concerns and perspectives regarding the program for disabled veterans, so as to gain insights pertaining to problems or progress, and suggestions to improve the program.
3. Held a special meeting with bureau DVAAP officials to receive and assess programmatic concerns at the bureau level and to provide a forum for such officials to discuss progress, problems, and concerns and to receive on-the-spot guidance.

D. AGENCY PROGRESS IN IMPLEMENTING ITS AFFIRMATIVE ACTION PLAN DURING THE FISCAL YEAR

1. DVAAP officials, including SPP Managers, attended a briefing, sponsored by the Director, Equal Employment Opportunity Staff, on the development of DVAAP reports.
2. The DVAAP Plan Update for FY 1991 was distributed to officials with SPP responsibilities for implementation.

3. The number of disabled veterans within the Department's work force increased.

1,990 - FY 1992

1,880 - FY 1991

- 3a. The number of 30 percent or more disabled veterans increased.

360 - FY 1992

324 - FY 1991

The Department will continue to develop aggressive action items in its DVAAP Plan Updates to further the increase of disabled veterans into its work force. In addition, because the law enforcement positions comprise over a third of the Department's work force and such positions require rigid physical standards which severely disabled veterans usually cannot meet, Justice components with such positions will continue to be encouraged to recruit and hire severely disabled veterans for their non-law enforcement jobs.

- 3b. Disabled veterans continued to be represented within all occupational components of PATCO and within the pay groupings.

U.S. DEPARTMENT OF JUSTICE
DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM
ACCOMPLISHMENT REPORT
STATUS OF DISABLED VETERANS IN THE JUSTICE WORK FORCE
AS OF SEPTEMBER 30, 1992

STATUS OF DISABLED VETERANS WITHIN THE DEPARTMENT OF JUSTICE

1. Disabled veterans continued to be employed within all of the occupational categories of PATCO and within the various pay groupings. A similar employment pattern exists for severely--30 percent or more--disabled veterans.

a. The employment of 30 percent or more disabled veterans continued to increase:

360 for FY 1992

324 for FY 1991

b. The employment of disabled veterans continued to increase:

1,990 for FY 1992

1,880 for FY 1991

U.S. DEPARTMENT OF JUSTICE

ON-BOARD EMPLOYMENT OF TOTAL,
VETERAN, AND DISABLED VETERAN EMPLOYEES
BY OCCUPATIONAL CATEGORIES FOR PAY PERIOD
ENDING SEPTEMBER 30, 1992

HEADQUARTERS AND FIELD EMPLOYEES
(FBI EXCLUDED)

PAY-PERIOD-20-ENDING-09/19/92
PRINTED ON-09/29/92

U.S. DEPARTMENT OF JUSTICE
JUSTICE EMPLOYEE DATA SERVICE

H102-PER20092
PAGE 60

*** DOJ ***
SENSITIVE

ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES
BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
HEADQUARTERS EMPLOYEES

OCCUPATIONAL CATEGORY		TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
		#	%	#	%	#	%	#	%	#	%	#	%
ALL OCCUPATIONS	ALL EMPLOYEES	13298	100.0	1775	13.3	194	1.5	42	.3				
	MINORITIES	4830	100.0	435	9.0	50	1.0	12	.2				
	WOMEN	7173	100.0	112	1.6	13	.2	3					
PROFESSIONAL/ADMINISTRATIVE	ALL EMPLOYEES	8911	100.0	1513	17.0	166	1.9	37	.4				
	MINORITIES	1984	100.0	279	14.1	38	1.9	10	.5				
	WOMEN	3811	100.0	63	1.7	6	.2	2	.1				
GS & EQUIV. 5-12	ALL EMPLOYEES	2808	100.0	276	9.8	32	1.1	15	.5				
	MINORITIES	1060	100.0	105	9.9	13	1.2	6	.6				
	WOMEN	1706	100.0	27	1.6	3	.2	1	.1				
GS & EQUIV. 13 +	ALL EMPLOYEES	5349	100.0	1123	21.0	124	2.3	21	.4				
	MINORITIES	833	100.0	164	19.7	24	2.9	3	.4				
	WOMEN	1908	100.0	34	1.8	3	.2	1	.1				
TECHNICAL	ALL EMPLOYEES	1417	100.0	119	8.4	10	.7	3	.2				
	MINORITIES	975	100.0	75	7.7	4	.4	2	.2				
	WOMEN	1145	100.0	19	1.7	2	.2						
GS & EQUIV. 1-4	ALL EMPLOYEES	4	100.0										
	MINORITIES	2	100.0										
	WOMEN	3	100.0										
GS & EQUIV. 5-12	ALL EMPLOYEES	1397	100.0	106	7.6	9	.6	2	.1				
	MINORITIES	969	100.0	71	7.3	4	.4	2	.2				
	WOMEN	1140	100.0	18	1.6	2	.2						
GS & EQUIV. 13 +	ALL EMPLOYEES	16	100.0	13	81.3	1	6.3	1	6.3				
	MINORITIES	4	100.0	4	100.0								
	WOMEN	2	100.0	1	50.0								
CLERICAL/OTHER WHITE-COLLAR	ALL EMPLOYEES	2502	100.0	78	3.1	13	.5	1					
	MINORITIES	1601	100.0	50	3.1	5	.3						
	WOMEN	1955	100.0	28	1.4	5	.3	1	.1				
BLUE-COLLAR	ALL EMPLOYEES	106	100.0	34	32.1	2	1.9	1	.9				
	MINORITIES	56	100.0	17	30.4	1	1.8						
	WOMEN	7	100.0										
WG 1-4	ALL EMPLOYEES	3	100.0	1	33.3								
	MINORITIES	2	100.0	1	50.0								
	WOMEN	1	100.0										

PAY-PERIOD-20-ENDING-09/19/92
PRINTED ON-09/29/92

U.S. DEPARTMENT OF JUSTICE
JUSTICE EMPLOYEE DATA SERVICE

H102-PER20092
PAGE 61

*** DOJ ***
SENSITIVE

ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES
BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
HEADQUARTERS EMPLOYEES

OCCUPATIONAL CATEGORY	TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
	#	%	#	%	#	%	#	%	#	%	#	%
WG 5-8	ALL EMPLOYEES	36	100.0	11	30.6	1	2.8					
	MINORITIES	27	100.0	8	29.6	1	3.7					
	WOMEN	4	100.0									
WG 9 +	ALL EMPLOYEES	44	100.0	14	31.8	1	2.3	1	2.3			
	MINORITIES	12	100.0	5	41.7							
	WOMEN											
WL PAY PLAN	ALL EMPLOYEES	7	100.0									
	MINORITIES	5	100.0									
	WOMEN	1	100.0									
WS PAY PLAN	ALL EMPLOYEES	9	100.0	8	88.9							
	MINORITIES	3	100.0	3	100.0							
	WOMEN											
UNSPECIFIED OCCUPATIONS	ALL EMPLOYEES	362	100.0	31	8.6	3	.8					
	MINORITIES	214	100.0	14	6.5	2	.9					
	WOMEN	255	100.0	2	.8							

PAY-PERIOD-20-ENDING-09/19/92
PRINTED ON-09/29/92

U.S. DEPARTMENT OF JUSTICE
JUSTICE EMPLOYEE DATA SERVICE

H102-PER20092
PAGE 62

*** DOJ ***
*** SENSITIVE ***

ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES
BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
FIELD EMPLOYEES

OCCUPATIONAL CATEGORY		TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
		#	%	#	%	#	%	#	%	#	%	#	%
ALL OCCUPATIONS	ALL EMPLOYEES	60097	100.0	13563	22.6	1667	2.8	318	.5				
	MINORITIES	17875	100.0	4093	22.9	558	3.1	108	.6				
	WOMEN	21155	100.0	610	2.9	91	.4	19	.1				
PROFESSIONAL/ADMINISTRATIVE	ALL EMPLOYEES	27296	100.0	6764	24.8	817	3.0	133	.5				
	MINORITIES	6217	100.0	1836	29.5	266	4.3	46	.7				
	WOMEN	8224	100.0	208	2.5	24	.3	3					
GS & EQUIV. 5-12	ALL EMPLOYEES	17353	100.0	4268	24.6	564	3.3	101	.6				
	MINORITIES	4820	100.0	1343	27.9	218	4.5	40	.8				
	WOMEN	6096	100.0	179	2.9	23	.4	3					
GS & EQUIV. 13 +	ALL EMPLOYEES	5750	100.0	2073	36.1	230	4.0	31	.5				
	MINORITIES	1006	100.0	438	43.5	45	4.5	5	.5				
	WOMEN	937	100.0	16	1.7	1	.1						
TECHNICAL	ALL EMPLOYEES	7163	100.0	1237	17.3	205	2.9	56	.8				
	MINORITIES	2690	100.0	481	17.9	89	3.3	23	.9				
	WOMEN	4755	100.0	137	2.9	20	.4	7	.1				
GS & EQUIV. 1-4	ALL EMPLOYEES	27	100.0	2	7.4								
	MINORITIES	5	100.0										
	WOMEN	18	100.0										
GS & EQUIV. 5-12	ALL EMPLOYEES	7124	100.0	1230	17.3	204	2.9	56	.8				
	MINORITIES	2681	100.0	480	17.9	89	3.3	23	.9				
	WOMEN	4736	100.0	137	2.9	20	.4	7	.1				
GS & EQUIV. 13 +	ALL EMPLOYEES	7	100.0	4	57.1	1	14.3						
	MINORITIES												
	WOMEN	1	100.0										
CLERICAL/OTHER WHITE-COLLAR	ALL EMPLOYEES	21298	100.0	4235	19.9	480	2.3	93	.4				
	MINORITIES	7861	100.0	1433	18.2	159	2.0	31	.4				
	WOMEN	7329	100.0	235	3.2	42	.6	7	.1				
BLUE-COLLAR	ALL EMPLOYEES	3405	100.0	1257	36.9	146	4.3	25	.7				
	MINORITIES	831	100.0	331	39.8	38	4.6	5	.6				
	WOMEN	220	100.0	14	6.4	2	.9	1	.5				
WG 1-4	ALL EMPLOYEES	11	100.0	4	36.4	1	9.1	1	9.1				
	MINORITIES	5	100.0	1	20.0								
	WOMEN												

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U.S. DEPARTMENT OF JUSTICE
JUSTICE EMPLOYEE DATA SERVICE

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*** SENSITIVE ***

ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES
BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
FIELD EMPLOYEES

OCCUPATIONAL CATEGORY		TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
		#	%	#	%	#	%	#	%	#	%	#	%
WG 5-8	ALL EMPLOYEES	115	100.0	57	49.6	13	11.3	2	1.7				
	MINORITIES	56	100.0	25	44.6	6	10.7						
	WOMEN	10	100.0	2	20.0								
WG 9 +	ALL EMPLOYEES	159	100.0	103	64.8	17	10.7	5	3.1				
	MINORITIES	84	100.0	51	60.7	3	3.6	1	1.2				
	WOMEN												
WL PAY PLAN	ALL EMPLOYEES	70	100.0	19	27.1	2	2.9						
	MINORITIES	29	100.0	11	37.9	2	6.9						
	WOMEN	14	100.0										
WS PAY PLAN	ALL EMPLOYEES	3046	100.0	1074	35.3	133	3.7	17	.6				
	MINORITIES	655	100.0	243	37.1	27	4.1	4	.6				
	WOMEN	196	100.0	12	6.1	2	1.0	1	.5				
UNSPECIFIED OCCUPATIONS	ALL EMPLOYEES	935	100.0	70	7.5	19	2.0	11	1.2				
	MINORITIES	276	100.0	12	4.3	6	2.2	3	1.1				
	WOMEN	627	100.0	16	2.6	3	.5	1	.2				

U.S. DEPARTMENT OF JUSTICE
EMPLOYMENT TOTALS, VETERANS, AND DISABLED VETERANS
BY PATCO AS OF SEPTEMBER 30, 1992
FEDERAL BUREAU OF INVESTIGATION

VETERAN, DISABLED VETERAN EMPLOYMENT BY PATCOB AS OF 9/30/92

	TOTAL	TOTAL VETERAN	VETERAN PERCENT	TOTAL DISABLED	DISABLED PERCENT
TOTAL PERSONNEL:	24573	3647	14.8	129	0.5
MINORITY:	6465	478	7.3	17	0.2
FEMALE :	11199	74	0.6	1	0.0
PROF/ADMIN :	14645	3151	21.7	113	0.8
MINORITY:	2323	343	14.7	13	0.5
FEMALE :	3819	37	0.9	0	0.0
GRD 1 - 4 :	1	0	0.0	0	0.0
MINORITY:	0	0	0.0	0	0.0
FEMALE :	1	0	0.0	0	0.0
GRD 5 - 12 :	6378	339	5.3	12	0.1
MINORITY:	1496	74	4.9	3	0.2
FEMALE :	2898	17	0.5	0	0.0
GRD 13 AND UP:	8265	2842	34.3	106	1.2
MINORITY:	827	269	32.5	10	1.2
FEMALE :	620	20	2.4	0	0.0
TECHNICAL :	4430	303	6.8	7	0.1
MINORITY:	1748	55	3.1	1	0.0
FEMALE :	3065	17	0.5	1	0.0
GRD 1 - 4 :	11	0	0.0	0	0.0
MINORITY:	3	0	0.0	0	0.0
FEMALE :	7	0	0.0	0	0.0
GRD 5 - 12 :	4274	251	5.8	7	0.1
MINORITY:	1735	53	3.0	1	0.0
FEMALE :	3051	17	0.5	1	0.0
GRD 13 AND UP:	145	52	35.8	0	0.0
MINORITY:	9	2	22.2	0	0.0
FEMALE :	7	0	0.0	0	0.0
CLK/OTH W/COLR :	4998	66	1.7	2	0.0
MINORITY:	2072	36	1.7	1	0.0
FEMALE :	4191	18	0.4	0	0.0
BLUE COLLAR :	500	77	15.4	2	0.4
MINORITY:	322	44	13.6	2	0.6
FEMALE :	124	2	1.6	0	0.0
WG 1 - 4 :	128	1	0.7	0	0.0
MINORITY:	98	0	0.0	0	0.0
FEMALE :	62	0	0.0	0	0.0
WG 5 - 8 :	131	9	6.8	0	0.0
MINORITY:	44	1	2.2	0	0.0
FEMALE :	8	0	0.0	0	0.0
WG 9 AND UP :	149	38	25.5	2	1.3
MINORITY:	19	2	10.5	0	0.0
FEMALE :	0	0	0.0	0	0.0
WL PAY PLAN :	30	7	23.3	0	0.0
MINORITY:	17	1	5.8	0	0.0
FEMALE :	11	0	0.0	0	0.0
WS PAY PLAN :	35	16	45.7	0	0.0
MINORITY:	7	3	42.8	0	0.0
FEMALE :	3	0	0.0	0	0.0
UNK OCCUP :	27	6	22.2	0	0.0
MINORITY:	7	1	14.2	0	0.0
FEMALE :	1	0	0.0	0	0.0

U.S. Department of Justice

Disabled Veterans Affirmative Action Program (DVAAP)

FY 1993

ANNUAL UPDATE



U.S. DEPARTMENT OF JUSTICE
DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP) PLAN UPDATE

FISCAL YEAR 1993
OCTOBER 1, 1992 - SEPTEMBER 30, 1993


U.S. Department of Justice
AGENCY

10th Street and Constitution Avenue, N.W.
Washington, DC 20530
ADDRESS

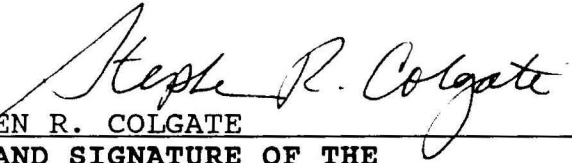
97,968
NUMBER OF EMPLOYEES COVERED BY THIS PLAN

ARLENE S. HUDSON
Department Selective Placement Program Manager
NAME/TITLE OF PREPARER

Voice:
(202) 501-8745
TDD:
(202) 501-7908
TELEPHONE NUMBERS


TED MCBURROWS
NAME AND SIGNATURE OF THE DIRECTOR
EQUAL EMPLOYMENT OPPORTUNITY STAFF

JAN - 6 1993
DATE


STEPHEN R. COLGATE
NAME AND SIGNATURE OF THE
ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

JAN - 7 1993
DATE

I. ADMINISTRATION OF THE DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP)

A. BUREAUS COVERED BY THIS PLAN UPDATE

Bureau of Prisons
Drug Enforcement Administration
Federal Bureau of Investigation
Immigration and Naturalization Service
Office of Justice Programs
Offices of United States Attorneys
Offices, Boards, and Divisions
United States Marshals Service

The bureau known as the Offices, Boards, and Divisions (OBD's) consists of the following components:

Office of the Attorney General
Office of the Deputy Attorney General
Office of the Solicitor General
Office of the Inspector General
Office of Legal Counsel
Office of Policy Development/
Freedom of Information Act
Coordination
Office of Intelligence Policy and Review
Office of Professional Responsibility
Office of Legislative Affairs
Office of Liaison Services
Office of Public Affairs
Justice Management Division
Antitrust Division
Civil Division
Civil Rights Division
Office of Special Counsel for
Immigration Related Unfair
Employment Practices
Criminal Division
Environment and Natural Resources Division
Tax Division
Interpol - U.S. National Central Bureau
Executive Office for Immigration Review
Pardon Attorney
U.S. Parole Commission
Offices of U.S. Trustees
Community Relations Service
Foreign Claims Settlement Commission

B. SCOPE OF PLAN UPDATE:

All bureaus and their components are covered by the provisions within this Disabled Veterans Affirmative Action Program (DVAAP) Plan Update for equitable employment opportunities for disabled veterans.

C. AUTHORITIES:

5 CFR 720, Subpart C - Affirmative Employment Programs;
Disabled Veterans Affirmative Action Program

38 U.S.C. 101(2) - Definition of "veteran"

38 U.S.C. 2011(3) - Definition of "disabled veteran"

38 U.S.C. 2104 - Employment within the Federal Government

5 U.S.C. 3112 - Disabled Veterans noncompetitive appointments

29 U.S.C. 791(b) - Employment of Handicapped Individuals:
Federal Agencies: Affirmative Action Program Plans

D. DEFINITIONS OF DISABLED VETERAN/VETERAN:

1. Disabled Veteran:

- A veteran who is entitled to compensation under laws administered by the Department of Veterans Affairs, or
- A person who was discharged or released from active duty because of a service-connected disability.

2. Veteran:

- A person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

E. LABOR-MANAGEMENT RELATIONS:

This plan creates no new obligations to consult, confer, or negotiate with recognized labor organizations beyond those contained in the Civil Service Reform Act of 1978, Chapter 71 of Title 5, and U.S. Department of Justice regulations. However, where such recognition exists, management officials, supervisors, and other representatives of management responsible for formulating, implementing, and administering EEO plans and programs must be mindful of their obligations to consult, confer, or negotiate with recognized labor organizations in accordance with their level of recognition

and appropriate rights. Such obligations exist, of course, where the development and administration of Equal Employment Opportunity (EEO) plans and programs involve the establishment of new personnel policies, practices, or other matters affecting working conditions. To the extent the plan is in conflict with existing agreements, the Act requires that application in whole or in part may have to be suspended for the term of said agreement in the unit in question.

F. **PROGRAM ADMINISTRATION:**

The program to develop and enhance employment opportunities for veterans who are disabled is a part of the Department's Selective Placement Program (SPP) for Persons and Veterans with Disabilities.

The official ultimately responsible for the DVAAP for the Department of Justice is the Attorney General.

The primary official responsible for establishing and overseeing the DVAAP Departmentwide is the Assistant Attorney General for Administration (AAG/A), who is the Director of Equal Employment Opportunity for the Department of Justice (DOJ). The AAG/A is assisted by a Director and Staff for equal employment opportunity programs.

The heads of components are responsible for the development of the in-house DVAAP Plan Update and Accomplishments Report and for the implementation of this DVAAP Plan Update.

The Departmentwide official responsible for providing technical assistance, guidance, and the monitoring of activities and programmatic progress is the Director, Equal Employment Opportunity Staff (EEOS), Justice Management Division (JMD). The Director, EEOS, is assisted by a staff member who is the Departmentwide SPP Manager. Within each bureau's equal employment opportunity (EEO) system there are officials with similar duties and responsibilities.

POLICY STATEMENT

It is the policy of the Department of Justice (DOJ) to implement a vigorous program to promote the employment of disabled veterans, especially those with a 30 percent or more disability. We will continue to actively recruit and hire disabled veterans who have sacrificed so much in the service of their country.

The Disabled Veterans Affirmative Action Program (DVAAP) embodies several special employment authorities. These authorities are designed to assist managers, supervisors, and hiring officials in readily identifying and hiring qualified disabled veterans in occupational categories throughout the DOJ. We must not hesitate to utilize these authorities in our search for men and women who can make major contributions to this Department, as they have made to this great country.

The Department has a number of Selective Placement Program Managers and personnelists within each component, who are prepared to provide information on any issue pertaining to the employment of disabled veterans, including addressing questions about accessibility and accommodation. We must consult these resources as we seek to develop and implement new initiatives that will enhance our employment of disabled veterans and ensure continued diversity of our work force.

III. DVAAP ACTION ITEMS - FY 1993

A. RECRUITING METHODS

1. Expand recruitment to organizations such as centers for independent living, DVAAP and/or Selective Placement Program Managers/Coordinators within other Federal agencies, Special Emphasis Program Managers within Justice and other Federal agencies, and, where appropriate, the auxiliary components of organizations which represent disabled veterans. Utilize internal employee organizations as a resource to identify qualified candidates.
2. Promote the sharing of employment applications received from disabled veterans with other Special Emphasis Program Managers, personnelists, and hiring officials throughout the Department, in order to increase the range of employment consideration for the applicant.
3. List a telephone number to a telecommunications device for the deaf (TDD) for each contact person indicated on job vacancy announcements, so that speech/hearing-impaired persons may have access to employment information as do others without similar impairments.
4. Sponsor a seminar for personnel specialists and assistants, as well as recruiting and hiring officials regarding sensitivity to and awareness of employment of disabled veterans and persons with disabilities. Include in such training programs the use of the special appointing authorities applicable to disabled veterans/persons with disabilities, as well as other recruitment/employment programs.
5. Continue to use recruiting methods set out in Appendix A.

B. METHODS TO BE USED TO INFORM COMPONENTS AND FIELD INSTALLATIONS OF THEIR RESPONSIBILITIES UNDER THIS PLAN UPDATE:

1. Continue to distribute the Department's approved Affirmative Action Program Plan Update to managers, hiring officials, equal employment/affirmative action officers, and to SPP Managers/Coordinators. Further, dissemination will be to in-house disabled veteran/handicap/EEO groups, and to other employees upon request. Bureau plan updates will continue to have a similar distribution pattern. Plan updates are to be available in alternative formats to accommodate print-impaired readers.

2. Continue to provide technical guidance periodically at both the Department and bureau levels, using a number of methods, including directives, policy statements, operations memoranda, manual issuances, and orientation/training sessions. If orientation/training is by closed circuit television, methods should be used to accommodate persons with speech/hearing impairments.
3. Continue to conduct on-site visits and reviews by officials with DVAAP responsibilities to provide technical guidance and oversight.

C. METHOD OF MONITORING, REVIEWING, AND EVALUATING THE
DVAAP PLAN UPDATE:

1. Continue to review the various statistical reports such as Human Resource Management Information System (HRMIS), Personnel Pay System (PERSPAY), National Finance Center, and Central Personnel Data File (CPDF), and other special statistical data to assess progress, problems or deficiencies pertaining to the recruitment, employment, and advancement of disabled veterans.
2. Identify those bureaus that need to utilize special recruiting initiatives to increase employment of disabled veterans will develop and submit a plan for such methods to the Assistant Attorney General for Administration. The EEOS will provide technical guidance and assistance to bureau officials in identifying appropriate methods to be applied.
3. Continue to conduct on-site visits and reviews to ascertain the viability of the DVAAP, as well as to provide oversight and technical guidance.
4. Include disabled veterans on EEO Committees, where committees exist, or ascertain their views through other methods of consultation.

D. STATUS OF DISABLED VETERANS WITHIN THE DEPARTMENT OF JUSTICE

1. Disabled veterans continued to be employed within the various occupational categories of PATCO¹ and within the various pay groupings. A similar employment pattern exists for severely--30 percent or more--disabled veterans.

a. The employment of 30 percent or more disabled veterans continued to increase:

360 for FY 1992

324 for FY 1991

b. The employment of disabled veterans continued to increase:

1,990 for FY 1992

1,880 for FY 1991

The Department will continue to develop aggressive action items in its DVAAP Plan Updates to further the increase of disabled veterans into its work force. In addition, because the law enforcement positions comprise over a third of the Department's work force and such positions require rigid physical standards which severely disabled veterans usually cannot meet, Justice components with such positions will continue to be strongly encouraged to recruit and hire severely disabled veterans for non-law enforcement jobs.

¹ PATCO (Professional, Administrative, Technical, Clerical, and Other) is the Office of Personnel Management's designation of occupational groupings.

U.S. DEPARTMENT OF JUSTICE

**ON-BOARD EMPLOYMENT OF TOTAL,
VETERAN, AND DISABLED VETERAN EMPLOYEES
BY OCCUPATIONAL CATEGORIES FOR PAY PERIOD
ENDING SEPTEMBER 30, 1992**

**HEADQUARTERS AND FIELD EMPLOYEES
(FBI EXCLUDED)**

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PRINTED ON-09/29/92

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ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES
BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
HEADQUARTERS EMPLOYEES

OCCUPATIONAL CATEGORY		TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
		#	%	#	%	#	%	#	%	#	%	#	%
ALL OCCUPATIONS	ALL EMPLOYEES	13298	100.0	1775	13.3	194	1.5	42	.3				
	MINORITIES	4830	100.0	435	9.0	50	1.0	12	.2				
	WOMEN	7173	100.0	112	1.6	13	.2	3					
PROFESSIONAL/ADMINISTRATIVE	ALL EMPLOYEES	8911	100.0	1513	17.0	166	1.9	37	.4				
	MINORITIES	1984	100.0	279	14.1	38	1.9	10	.5				
	WOMEN	3811	100.0	63	1.7	6	.2	2	.1				
GS & EQUIV. 5-12	ALL EMPLOYEES	2808	100.0	276	9.8	32	1.1	15	.5				
	MINORITIES	1060	100.0	105	9.9	13	1.2	6	.6				
	WOMEN	1706	100.0	27	1.6	3	.2	1	.1				
GS & EQUIV. 13 +	ALL EMPLOYEES	5349	100.0	1123	21.0	124	2.3	21	.4				
	MINORITIES	833	100.0	164	19.7	24	2.9	3	.4				
	WOMEN	1908	100.0	34	1.8	3	.2	1	.1				
TECHNICAL	ALL EMPLOYEES	1417	100.0	119	8.4	10	.7	3	.2				
	MINORITIES	975	100.0	75	7.7	4	.4	2	.2				
	WOMEN	1145	100.0	19	1.7	2	.2						
GS & EQUIV. 1-4	ALL EMPLOYEES	4	100.0										
	MINORITIES	2	100.0										
	WOMEN	3	100.0										
GS & EQUIV. 5-12	ALL EMPLOYEES	1397	100.0	106	7.6	9	.6	2	.1				
	MINORITIES	969	100.0	71	7.3	4	.4	2	.2				
	WOMEN	1140	100.0	18	1.6	2	.2						
GS & EQUIV. 13 +	ALL EMPLOYEES	16	100.0	13	81.3	1	6.3	1	6.3				
	MINORITIES	4	100.0	4	100.0								
	WOMEN	2	100.0	1	50.0								
CLERICAL/OTHER WHITE-COLLAR	ALL EMPLOYEES	2502	100.0	78	3.1	13	.5	1					
	MINORITIES	1601	100.0	50	3.1	5	.3						
	WOMEN	1955	100.0	28	1.4	5	.3	1	.1				
BLUE-COLLAR	ALL EMPLOYEES	106	100.0	34	32.1	2	1.9	1	.9				
	MINORITIES	56	100.0	17	30.4	1	1.8						
	WOMEN	7	100.0										
WG 1-4	ALL EMPLOYEES	3	100.0	1	33.3								
	MINORITIES	2	100.0	1	50.0								
	WOMEN	1	100.0										

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ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES
BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
HEADQUARTERS EMPLOYEES

OCCUPATIONAL CATEGORY		TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
		#	%	#	%	#	%	#	%	#	%	#	%
WG 5-8	ALL EMPLOYEES	36	100.0	11	30.6	1	2.8						
	MINORITIES	27	100.0	8	29.6	1	3.7						
	WOMEN	4	100.0										
WG 9 +	ALL EMPLOYEES	44	100.0	14	31.8	1	2.3	1	2.3				
	MINORITIES	12	100.0	5	41.7								
	WOMEN												
WL PAY PLAN	ALL EMPLOYEES	7	100.0										
	MINORITIES	5	100.0										
	WOMEN	1	100.0										
WS PAY PLAN	ALL EMPLOYEES	9	100.0	8	88.9								
	MINORITIES	3	100.0	3	100.0								
	WOMEN												
UNSPECIFIED OCCUPATIONS	ALL EMPLOYEES	362	100.0	31	8.6	3	.8						
	MINORITIES	214	100.0	14	6.5	2	.9						
	WOMEN	255	100.0	2	.8								

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*** SENSITIVE ***

ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES
BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
FIELD EMPLOYEES

OCCUPATIONAL CATEGORY		TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
		#	%	#	%	#	%	#	%	#	%	#	%
ALL OCCUPATIONS	ALL EMPLOYEES	60097	100.0	13563	22.6	1667	2.8	318	.5				
	MINORITIES	17875	100.0	4093	22.9	558	3.1	108	.6				
	WOMEN	21155	100.0	610	2.9	91	.4	19	.1				
PROFESSIONAL/ADMINISTRATIVE	ALL EMPLOYEES	27296	100.0	6764	24.8	817	3.0	133	.5				
	MINORITIES	6217	100.0	1836	29.5	266	4.3	46	.7				
	WOMEN	8224	100.0	208	2.5	24	.3	3					
GS & EQUIV. 5-12	ALL EMPLOYEES	17353	100.0	4268	24.6	564	3.3	101	.6				
	MINORITIES	4820	100.0	1343	27.9	218	4.5	40	.8				
	WOMEN	6096	100.0	179	2.9	23	.4	3					
GS & EQUIV. 13 +	ALL EMPLOYEES	5750	100.0	2073	36.1	230	4.0	31	.5				
	MINORITIES	1006	100.0	438	43.5	45	4.5	5	.5				
	WOMEN	937	100.0	16	1.7	1	.1						
TECHNICAL	ALL EMPLOYEES	7163	100.0	1237	17.3	205	2.9	56	.8				
	MINORITIES	2690	100.0	481	17.9	89	3.3	23	.9				
	WOMEN	4755	100.0	137	2.9	20	.4	7	.1				
GS & EQUIV. 1-4	ALL EMPLOYEES	27	100.0	2	7.4								
	MINORITIES	5	100.0										
	WOMEN	18	100.0										
GS & EQUIV. 5-12	ALL EMPLOYEES	7124	100.0	1230	17.3	204	2.9	56	.8				
	MINORITIES	2681	100.0	480	17.9	89	3.3	23	.9				
	WOMEN	4736	100.0	137	2.9	20	.4	7	.1				
GS & EQUIV. 13 +	ALL EMPLOYEES	7	100.0	4	57.1	1	14.3						
	MINORITIES												
	WOMEN	1	100.0										
CLERICAL/OTHER WHITE-COLLAR	ALL EMPLOYEES	21298	100.0	4235	19.9	480	2.3	93	.4				
	MINORITIES	7861	100.0	1433	18.2	159	2.0	31	.4				
	WOMEN	7329	100.0	235	3.2	42	.6	7	.1				
BLUE-COLLAR	ALL EMPLOYEES	3405	100.0	1257	36.9	146	4.3	25	.7				
	MINORITIES	831	100.0	331	39.8	38	4.6	5	.6				
	WOMEN	220	100.0	14	6.4	2	.9	1	.5				
WG 1-4	ALL EMPLOYEES	11	100.0	4	36.4	1	9.1	1	9.1				
	MINORITIES	5	100.0	1	20.0								
	WOMEN												

PAY-PERIOD-20-ENDING-09/19/92
PRINTED ON-09/29/92

U.S. DEPARTMENT OF JUSTICE
JUSTICE EMPLOYEE DATA SERVICE

H102-PER20092
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*** DOJ ***
SENSITIVE

ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES
BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
FIELD EMPLOYEES

OCCUPATIONAL CATEGORY		TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
		#	%	#	%	#	%	#	%	#	%	#	%
WG 5-8	ALL EMPLOYEES	115	100.0	57	49.6	13	11.3	2	1.7				
	MINORITIES	56	100.0	25	44.6	6	10.7						
	WOMEN	10	100.0	2	20.0								
WG 9 +	ALL EMPLOYEES	159	100.0	103	64.8	17	10.7	5	3.1				
	MINORITIES	84	100.0	51	60.7	3	3.6	1	1.2				
	WOMEN												
WL PAY PLAN	ALL EMPLOYEES	70	100.0	19	27.1	2	2.9						
	MINORITIES	29	100.0	11	37.9	2	6.9						
	WOMEN	14	100.0										
WS PAY PLAN	ALL EMPLOYEES	3046	100.0	1074	35.3	113	3.7	17	.6				
	MINORITIES	655	100.0	243	37.1	27	4.1	4	.6				
	WOMEN	196	100.0	12	6.1	2	1.0	1	.5				
UNSPECIFIED OCCUPATIONS	ALL EMPLOYEES	935	100.0	70	7.5	19	2.0	11	1.2				
	MINORITIES	276	100.0	12	4.3	6	2.2	3	1.1				
	WOMEN	627	100.0	16	2.6	3	.5	1	.2				

U.S. DEPARTMENT OF JUSTICE
EMPLOYMENT TOTALS, VETERANS, AND DISABLED VETERANS
BY PATCO AS OF SEPTEMBER 30, 1992
FEDERAL BUREAU OF INVESTIGATION

VETERAN, DISABLED VETERAN EMPLOYMENT BY PATCOB AS OF 9/30/92

	TOTAL	TOTAL VETERAN	VETERAN PERCENT	TOTAL DISABLED	DISABLED PERCENT
TOTAL PERSONNEL:	24573	3647	14.8	129	0.5
MINORITY:	6465	478	7.3	17	0.2
FEMALE :	11199	74	0.6	1	0.0
PROF/ADMIN :	14645	3151	21.7	113	0.8
MINORITY:	2323	343	14.7	13	0.5
FEMALE :	3619	37	0.9	0	0.0
GRD 1 - 4 :	1	0	0.0	0	0.0
MINORITY:	0	0	0.0	0	0.0
FEMALE :	1	0	0.0	0	0.0
GRD 5 - 12 :	6378	339	5.3	12	0.1
MINORITY:	1495	74	4.9	3	0.2
FEMALE :	2892	17	0.5	0	0.0
GRD 13 AND UP:	8265	2842	34.3	106	1.2
MINORITY:	827	269	32.5	10	1.2
FEMALE :	820	20	2.4	0	0.0
TECHNICAL :	4430	303	6.8	7	0.1
MINORITY:	1748	55	3.1	1	0.0
FEMALE :	3065	17	0.5	1	0.0
GRD 1 - 4 :	11	0	0.0	0	0.0
MINORITY:	3	0	0.0	0	0.0
FEMALE :	7	0	0.0	0	0.0
GRD 5 - 12 :	4274	251	5.8	7	0.1
MINORITY:	1735	53	3.0	1	0.0
FEMALE :	3051	17	0.5	1	0.0
GRD 13 AND UP:	145	52	35.8	0	0.0
MINORITY:	9	2	22.2	0	0.0
FEMALE :	7	0	0.0	0	0.0
CLK/OTH W/COLR :	4998	86	1.7	2	0.0
MINORITY:	2072	36	1.7	1	0.0
FEMALE :	4191	18	0.4	0	0.0
BLUE COLLAR :	500	77	15.4	2	0.4
MINORITY:	322	44	13.6	2	0.6
FEMALE :	124	2	1.6	0	0.0
WG 1 - 4 :	128	1	0.7	0	0.0
MINORITY:	98	0	0.0	0	0.0
FEMALE :	82	0	0.0	0	0.0
WG 5 - 8 :	131	9	6.8	0	0.0
MINORITY:	44	1	2.2	0	0.0
FEMALE :	8	0	0.0	0	0.0
WG 9 AND UP :	149	38	25.5	2	1.3
MINORITY:	19	2	10.5	0	0.0
FEMALE :	0	0	0.0	0	0.0
WL PAY PLAN :	30	7	23.3	0	0.0
MINORITY:	17	1	5.8	0	0.0
FEMALE :	11	0	0.0	0	0.0
WS PAY PLAN :	35	16	45.7	0	0.0
MINORITY:	7	3	42.8	0	0.0
FEMALE :	3	0	0.0	0	0.0
UNK OCCUP :	27	6	22.2	0	0.0
MINORITY:	7	1	14.2	0	0.0
FEMALE :	1	0	0.0	0	0.0

APPENDIX A

Special Guidance
Disabled Veterans Affirmative Action Program (DVAAP)

Special documents have been reprinted and made a part of this attachment because each reprint will provide basic information to implement the actions listed in the DVAAP Plan Update. Where appropriate, the information has been modified to reflect changes, such as the list of Selective Placement Program Managers for the Department and the Bureaus.

Additional initiatives and actions should be developed and implemented in the several components to bring about progress in the recruitment, employment, and advancement of disabled veterans.

U.S. DEPARTMENT OF JUSTICE
SELECTIVE PLACEMENT PROGRAM MANAGERS FOR
PERSONS WITH DISABILITIES AND DISABLED VETERANS

BUREAU OF PRISONS

Perdita Johnson
10010 Junction Drive
Suite 100-N
Annapolis Junction, MD 20701
(301) 317-7061 (VOICE/TDD)

OFFICE OF JUSTICE PROGRAMS

Barbara Wood
Room 1248E (IND BLDG)
633 Indiana Avenue, NW
Washington, DC 20531
(202) 307-5901 (VOICE)
(202) 307-3196 (TDD)

DRUG ENFORCEMENT

ADMINISTRATION

Sharon Taylor
Room 7312 (LP-2 BLDG)
700 Army-Navy Drive
Arlington, VA 22202
(202) 307-8888 (VOICE)
(202) 307-8903 (TDD)

OFFICE OF U.S. ATTORNEYS

Daryl Thomas
Room 1612 (MAIN BLDG)
10th & Constitution Ave. NW
Washington, DC 20530
(202) 514-3982 (VOICE)

FEDERAL BUREAU OF
INVESTIGATION

Gloria Lalka
Room 7901 (JEH BLDG)
9th & Penn. Ave., NW
Washington, DC 20535
(202) 324-4136 (VOICE)
(202) 324-2394 (TDD)

OFFICES, BOARDS, AND
DIVISIONS

Arlene Hudson
Room 7022 (PAT BLDG)
601 D Street, NW
Washington, DC 20530
(202) 501-8745 (VOICE)
(202) 501-7908 (TDD)

IMMIGRATION AND NATURALIZATION
SERVICE

Maria Jackson
Room 2210 (CAB BLDG)
425 Eye Street, NW
Washington, DC 20536
(202) 514-1246 (VOICE)
(202) 514-4012 (TDD)

U.S. MARSHALS SERVICE

Miguel A. Rodriguez
Room 820 (LP-1)
600 Army Navy Drive
Arlington, VA 22202-4210
(202) 307-9686 (VOICE)
1-800-423-0719 (TDD)

DEPARTMENTAL SELECTIVE PLACEMENT PROGRAM MANAGER

Arlene Hudson
Room 7022 (PAT BLDG)
601 D Street, NW
Washington, DC 20530
(202) 501-8745 (VOICE)
(202) 501-7908 (TDD)

RECRUITING METHODS

The following recruiting methods are to be used on a continuing basis.

1. Ensure that site(s) where recruitment and/or interview(s) are to be conducted is/are accessible.
2. Ensure that prior to recruitment and/or interview(s), special needs for accommodation have been solicited.
3. Ensure that reasonable accommodation(s) is/are provided to the known disability of the interviewee.
4. Ensure that recruitment and recruitment-related materials are in alternate formats for print-impaired persons.
5. Ensure that recruitment and recruitment-related literature contains language and information which will encourage individuals and veterans with disabilities to apply.
6. Ensure that interviewers have received orientation to the fundamentals of interviewing disabled veterans and individuals, and are comfortable in interacting with persons who have handicapping conditions.
7. Continue outreach efforts to solicit the applications of qualified disabled veterans for careers with the Department, with greater concentration on those veterans possessing a 30 percent or more disability. This includes advertisements in publications which focus on disabled veterans, campus newspapers, and brochures or souvenir publications of disabled veteran organizations.
8. Continue contacts with organizations providing referrals of job-ready disabled veteran applicants, such as the Paralyzed Veterans of America, Disabled American Veterans, Blinded Veterans Association, Department of Veterans Affairs (VA) Centers/Hospitals, Armed Forces discharge centers, State employment services, and State vocational rehabilitation offices.
9. Continue recruitment visits to the campuses of accredited colleges and universities to secure the applications of disabled veterans possessing qualifications for the career opportunities being promoted and to inform potential job candidates of such hiring programs as the honor law graduate/law student programs. Information will also be provided on opportunities for computer scientists and other computer-related skills, criminal justice degree candidates/graduates, as well as other disciplines required by the Department.

10. Continue to promote the use of special hiring authorities as a method to secure qualified 30 percent or more disabled veteran applicants for career opportunities with the Department.
11. Continue to provide to personnel offices reliable sources for the referral of qualified disabled veteran applicants for the Department's career opportunities.
12. Continue to provide the listing of VA Vocational and Rehabilitation officials to DOJ Personnel Offices so that these sources may be utilized by such offices in the recruitment of disabled veterans for career opportunities.
13. Forward a recruitment package which includes a listing of DOJ career opportunities, and bureau SPP Managers, as well as other information to the VA contacts mentioned in paragraph 1 above, so that the specialists may be encouraged to initiate contact and referrals of applicants to the SPP Managers and to Personnel Officers for present and upcoming job vacancies.
14. Recirculate to managers and supervisors the Department's Order setting out the method by which they may avail themselves of information, technical guidance, and other assistance relative to access to computer technology which can accommodate disabled employees and the DOJ component responsible for providing the assistance.
15. Continue to recruit at accredited vocational/trade schools to secure qualified disabled veteran applicants for the Department's technical, trades, and crafts positions.

U. S. D E P A R T M E N T O F J U S T I C E



S E L E C T I V E P L A C E M E N T

P R O G R A M

A P P O I N T M E N T A U T H O R I T I E S

HANDICAPPED PROGRAM APPOINTING AUTHORITIES

THE PHYSICALLY IMPAIRED

DEFINITION: A physically impaired person is one who: has a physical impairment which substantially limits one or more of such person's major life activities; has a record of such impairment; or is regarded as having such an impairment.

APPOINTMENT PROCEDURES

Competitive Appointment - Many physically impaired persons are able to qualify for competitive appointments like nonhandicapped employees.

Temporary Limited Appointment (Trial Appointment) - Handicapped employees who are unable to qualify for competitive appointment can be given a trial appointment not to exceed 700 hours (i.e., approximately 4 months). This appointing authority is recommended when the handicapped employee is required to demonstrate his or her job readiness. This type of appointment can also serve to overcome employer reluctance to hire physically handicapped persons because of concerns related to safe and efficient job performance and getting along with others in the workforce.

Excepted Appointment - Schedule A 213.3102(u). Eligibility for appointment under this authority is primarily based on the severity of the physical handicap. This authority provides an alternate route for employment of severely physically handicapped individuals. Job restructuring or modification of job tasks and work environment of a position may be required to accommodate the handicapped employee.

Certification Procedure - A severely physically handicapped person meets OPM's qualification requirements for a temporary limited appointment or an Excepted Appointment as described above, when certified by the Veteran's Administration or a State vocational agency.

Conversion to Competitive Status - Physically handicapped employees who are serving in an Excepted Appointment under Schedule A 213.3102(u) are eligible for noncompetitive conversion to competitive status after 2 years of successful performance. Agencies, not OPM, authorize conversions based on supervisory recommendations. Conversion is not mandatory for retention in the Schedule A position; however, there should be substantial justification for not recommending conversion of an employee who meets the minimum service requirement and demonstrates successful job performance.

THE MENTALLY OR EMOTIONALLY RESTORED

DEFINITION: A mentally or emotionally restored person is one who has experienced some mental or emotional difficulty, received professional treatment, and been judged by competent medical authority as ready to resume normal activities including employment.

APPOINTMENT PROCEDURES

Competitive Appointment - Many emotionally restored persons are able to qualify for competitive appointments like nonhandicapped employees.

Temporary Limited Appointment (Trial Appointment) - Handicapped employees who are unable to qualify for competitive appointment can be given a trial appointment not to exceed 700 hours (i.e., approximately 4 months). This appointing authority is recommended when the handicapped employee is required to demonstrate his or her job readiness. This type of appointment can also serve to overcome employer reluctance to hire emotionally restored persons because of concerns related to safe and efficient job performance and getting along with others in the workforce.

Excepted Appointment - Schedule B 213.3202(k). This authority provides mentally restored persons with an opportunity to update their skills and establish a successful performance record to counteract prejudice on the part of employers. FPM Letter 306-20 gives agencies, rather than OPM, the authority to make these appointments. Appointments under this authority are limited to 2 years.

Certification Procedure - It is anticipated that after 2 years of successful job performance, an emotionally restored person will not be at a competitive disadvantage for appointment and; therefore, must compete for any future Federal appointment, or have reinstatement or other noncompetitive eligibility.

Documentation - Agencies must maintain a record of each case (approved or disapproved) for a period of 2 years. Because of the confidential nature of these records, they should be filed using the procedures for maintenance of medical records. Each case file should include the following: (a) the position description for the job being filled; (b) the Application for Federal Employment; (c) documentation of the history of the mental illness; (d) certification by a State or Veterans Administration Counselor that the proposed appointee is capable of functioning in the specific position, including a statement by the psychologist or

psychiatrist as to the capability of the proposed appointee to function in the work setting; and (e) documentation of the reasons for approval or disapproval of the appointment

Conversion to Competitive Status - There is no provision for converting emotionally restored persons to competitive status based on 2 years service under this authority. These employees must compete for future Federal appointment, or have reinstatement or other noncompetitive eligibility.

THE MENTALLY RETARDED

DEFINITION: Mental retardation is a chronic and lifelong condition. In most cases, individuals who are mentally retarded have the capacity, within limitations, to learn, to be educated, and to be trained for useful and productive employment. Mental retardation may range from mild to profound; however, the majority of mentally retarded persons who seek employment are capable of performing assigned work.

APPOINTMENT PROCEDURES

Competitive Appointment - In some cases, mentally retarded persons are able to qualify for competitive appointments like nonhandicapped employees. The State rehabilitation counselor should be involved in the placement and follow-up processes.

Excepted Appointment - Mentally retarded persons are normally appointed by use of the Schedule A 213.3102(t). Generally, these appointments are made on a continuing basis, without time limitation; however, temporary appointments may be arranged with the mentally retarded person's rehabilitation counselor.

The following procedures apply to hiring, placing, or terminating mentally retarded persons.

- (1) Agencies should make arrangements with the appropriate State vocational rehabilitation agency at the local level.
- (2) Prior to employing a mentally retarded applicant, the Agency must obtain a certificate from the rehabilitation agency which states that the applicant (a) has the ability to perform the duties of the position, (b) is physically qualified to do the work without hazard to self or others, and (c) is competent to maintain self in a work environment.
- (3) Agencies will fully utilize the advice and assistance provided by the State vocational rehabilitation agency in its normal followup process. This can normally be accomplished through the supervisor of the employee.
- (4) To ensure that the State vocational rehabilitation agency can make immediate arrangements to assist the mentally retarded employee with continued

rehabilitation, agencies will not terminate the employment of a mentally retarded person without prior notification of an appropriate State vocational rehabilitation counselor.

Conversion to Competitive Status - Mentally retarded employees who are serving in an Excepted Appointment under Schedule A 213.3102(t) are eligible for noncompetitive conversion to competitive status after 2 years of successful performance. Agencies, not OPM, may authorize conversions based on supervisory recommendations. Conversion is not mandatory for retention in the Schedule A position; however, there should be substantial justification for not recommending conversion of an employee who meets the minimum service requirement and demonstrates successful job performance.

VETERANS PROGRAM APPOINTING AUTHORITIES

Vietnam Era Veterans

DEFINITION: Under Public Law 101-237, enacted December 18, 1989, and made effective January 1, 1990, a Vietnam era veteran or Post-Vietnam era veteran is defined as a veteran who has (1) a service-connected disability; or during such era, (2) served on active duty in the Armed Forces in a campaign or expedition where a campaign badge has been authorized; and (3) served on active duty after the Vietnam era.

Vietnam Era - The Vietnam era is the period beginning August 5, 1964, and ending May 7, 1975. Public Law 101-237 specifically targeted the three categories of veterans described above for coverage under the law. Some veterans who served during the Vietnam era and were previously eligible for Veterans Readjustment Appointments (VRA) under the old law are no longer eligible. They are Vietnam era veterans who served during the Vietnam era and have neither a service-connected disability nor an authorized campaign badge.

VRA Appointment Eligibility

"Certain Vietnam era veterans" - means veterans who served during the Vietnam era and are disabled or eligible for a campaign badge.

"Post-Vietnam era veterans" - means veterans who served more than 180 days on active duty, any part of which fell after the Vietnam era (i.e., after May 7, 1975) and up to the present date, whether or not the veteran is disabled or eligible for a campaign badge.

Time Limit on Appointment Eligibility - The time limit on appointment eligibility is the 4-year period beginning on the date of the veteran's discharge or release from active duty, or the 2-year period from the beginning of the enactment of Public Law 101-237, December 18, 1989, whichever is later. This means that veterans who are being considered for appointment after December 17, 1991, must have been discharged within the 4-years preceding the expiration date of the current law, December 31, 1993, and that effective December 17, 1991, virtually no Vietnam era veteran will be eligible for appointment unless recently discharged or retired.

APPOINTMENT PROCEDURES

Temporary Limited Appointment - Veterans who are eligible for VRA appointments may be appointed at the grade levels authorized under the VRA Program. However, these appointments do not lead to conversion to career-conditional appointments.

Competitive Appointment - Many Vietnam era veterans are able to qualify for competitive appointments in the same manner as other employees.

Veterans Readjustment Appointment-Excepted Appointment - Eligible Vietnam era veterans (as described above under "certain Vietnam era veterans and Post-Vietnam era veterans") may be given excepted appointments to positions otherwise in the competitive service. Vietnam era veterans may be appointed up to grade GS-11. Post-Vietnam era veterans may be appointed up to the grade GS-09 level.

Conversion - After the employee has completed two years of substantially continuous service under a veterans readjustment appointment and performance has been satisfactory, the agency must convert the appointment to career-conditional or career appointment within thirty days after the completion of the two-year service requirement.

Education/Training Agreements - Training agreements are still required under the new law; however, training agreements are no longer required for veterans with 15 or more years of education. A sample training agreement which can be modified to fit organizational needs may be found in the Federal Personnel Manual Chapter 307, Appendix A.

APPOINTMENTS OF OTHER DISABLED VETERANS

Disabled veterans who have been rated by a military department or the Department of Veterans Affairs as having a compensable service-connected disability of 30 percent or more may be given temporary limited appointments. The disability must be documented by a notice of retirement or discharge due to service-connected disability from active military service dated at any time, or by a notice of compensable disability from the Department of Veterans Affairs, dated within the last 12 months.

Veterans Readjustment Appointments

Expanded Job Opportunities in the Federal Service

NEW--FOR VETERANS

Public Law 102-16, effective March 23, 1991, makes it even easier for Federal agencies to hire Armed Forces veterans who served during and after the Vietnam era.

The VRA (Veterans Readjustment Appointment) authority is a special hiring program. Eligible veterans do not have to take examinations or compete with nonveteran candidates. VRA appointees are initially hired for a 2-year period. Successful completion of the 2-year VRA appointment leads to a permanent civil service appointment.

★ Who is eligible for a VRA appointment?

Veterans who served more than 180 days active duty, any part of which occurred during the Vietnam era (August 5, 1964 to May 7, 1975), and have other than a dishonorable discharge, are eligible if they have (1) a service-connected disability or (2) a campaign badge (for example, the Vietnam Service Medal).

Post-Vietnam-era veterans, who entered the service after May 7, 1975, are eligible if they served on active duty for more than 180 days and have other than a dishonorable discharge.

The 180-day service requirement does not apply to veterans discharged from active duty for service-connected disability.

★ How long are veterans eligible for VRA appointments after they leave the service?

Vietnam-era veterans qualify for a VRA appointment until 10 years after discharge or until December 31, 1993, whichever date is later.

Post-Vietnam-era veterans are eligible for 10 years after the date of their last discharge or until December 17, 1999, whichever date is later.

Eligible veterans with a service-connected disability of 30% or more can be hired without time limit.

★ Are there any other restrictions on eligibility for a VRA appointment?

No. Under the new VRA law, all veterans described above are eligible. (The law eliminated a previous requirement that VRA appointees have fewer than 16 years of education.)

★ What jobs can be filled under the VRA authority?

Federal agencies now can use the VRA authority to fill any white collar position up through GS 11, blue collar jobs up through WG 11, and equivalent jobs under other Federal pay systems.

★ How do veterans apply for VRA appointments?

Veterans should contact the agency personnel office where they want to work. Agencies recruit candidates and make VRA appointments directly without getting a list of candidates from OPM. Veterans can get a list of local agency personnel offices from the Veterans Representative at the OPM offices listed on the back of this sheet.

★ Are disabled veterans entitled to special consideration?

Agencies must give preference to disabled veterans over other veterans.

★ Is training available after appointment?

In some cases, agencies provide special training programs for VRA appointees. A program could include on-the-job assignments or classroom training.

★ Can VRA appointees work part-time?

Agencies may be able to set up part-time work schedules for individuals who want to attend school or handle family or other responsibilities.

(over)



United States
Office of
Personnel
Management

Career Entry Group
Staffing Policy Division

1900 E Street, NW
Washington, DC 20415-0001

CE-100
June 1991

NARA-18-1003-A-003270

U.S. Office of Personnel Management Area Office Veterans Representatives for Employment Inquiries

Alabama

Lee Hockenberry
Tuscaloosa Area Office
(205) 544-5130

Alaska

John Busted
Anchorage Area Office
(907) 271-3617

Arizona

Jack Mallin
Phoenix Area Office
(602) 640-5809

Arkansas

(See Oklahoma)

California

John Andre
Los Angeles Area Office
(818) 575-6507

Susan Fong Young
Sacramento Area Office
(916) 551-3275

Mark Gunby
San Francisco Area Office
(415) 744-7216

Colorado

Doris Veden
Denver Area Office
(303) 969-7036

Connecticut

A.J. Dubola
Hartford Area Office
(203) 240-3607

Delaware

(See Philadelphia, PA)

District of Columbia

William Robinson
Washington Area Service Ctr.
(202) 606-1848

Florida

R.C. McFadyen
Orlando Area Office
(407) 648-6150

Georgia

Ruth Walker
Atlanta Area Office
(404) 331-4588

Hawaii

Charles Tamabayashi
Honolulu Area Office
(808) 541-2790

Idaho

(See Washington State)

Illinois

Victoria Jones
Chicago Area Office
(312) 353-6799

Indiana

Sharon Elliot
Indianapolis Area Office
(317) 226-6245

Iowa

(See Kansas City, MO)

Kansas

Verla Davis
Wichita Area Office
(316) 269-6797

Kentucky

(See Ohio)

Louisiana

Melody Silvey
New Orleans Area Office
(504) 589-2768

Maine

(see New Hampshire)

Maryland

Thomas Platt
Baltimore Area Office
(301) 962-3222

Massachusetts

Donald MacGee
Boston Area Office
(617) 565-5926

Michigan

Thomas Bixler
Detroit Area Office
(313) 226-2086

Minnesota

Paul McMahon
Twin Cities Area Office
(612) 725-3633

Mississippi

(See Alabama)

Missouri

Richard Krueger
Kansas City Area Office
(816) 426-5705

Kirk Hawkins
St. Louis Area Office
(314) 539-2341

Montana

(See Colorado)

Nebraska

(See Kansas)

Nevada

(See Sacramento, CA)

New Hampshire

Gloria Dunn
Portsmouth Area Office
(603) 433-0744

New Jersey

Don Hodge
Newark Area Office
(201) 645-2376

New Mexico

Rosa Benavidez
Albuquerque Area Office
(505) 766-1099

New York

Walter Cashin
New York Area Office
(212) 264-0442

Larry Burkett
Syracuse Area Office
(315) 423-5650

North Carolina

Ayn Clayborne
Raleigh Area Office
(919) 790-2817

North Dakota

(See Minnesota)

Ohio

John McConnell
Dayton Area Office
(513) 225-2529

Oklahoma

Dan Henderson
Oklahoma City Area Office
(405) 231-4613

Oregon

(See Washington State)

Pennsylvania

John Glooch
Harrisburg Field Office
(717) 782-4546

Gene Hyden
Philadelphia Area Office
(215) 597-7670

George Horn
Pittsburgh Area Office
(412) 644-4355

Puerto Rico

Vivien Fernandez
San Juan Area Office
(809) 766-6620

Rhode Island

(See Connecticut)

South Carolina

(See North Carolina)

South Dakota

(See Minnesota)

Tennessee

Ralph Buntin
Memphis Area Office
(901) 544-3958

Texas

Frank McLamore
Dallas Area Office
(214) 767-8133

Jose Borrero
San Antonio Area Office
(512) 229-6613

Utah

(See Colorado)

Vermont

(See New Hampshire)

Virgin Islands

(See Puerto R'co)

Virginia

Valerie DeMels
Norfolk Area Office
(804) 441-3362

Washington (State)

Robert Coleman
Seattle Area Office
(206) 553-4691

West Virginia

(See Ohio)

Wisconsin

(See Illinois)

Wyoming

(See Colorado)

June 1991

AMERICAN
OVERSIGHT

NARA-18-1003-A-003271

INTERAGENCY ADVISORY GROUP

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415

Secretariat

1900 E St., NW
(202) 632-6266

MAR 28 1991

MEMORANDUM FOR DIRECTORS OF PERSONNEL

FROM:

LEONARD R. KLEIN
ASSOCIATE DIRECTOR
FOR CAREER ENTRY

SUBJECT: Preference for Gulf Veterans

Director Constance Berry Newman has announced that the more than half-million United States Armed Forces members who served onsite in the Desert Shield/Desert Storm operations can claim veteran preference in Federal civil service employment. This is the largest number of service men and women to be covered since 1976, when preference ended for peacetime service.

To recognize the special sacrifices and outstanding performance of the Armed Forces, President Bush has established the Southwest Asia Service Medal for active duty personnel serving in military operations in Southwest Asia on or after August 2, 1990. Under the civil service laws, receiving a campaign medal is a basis for earning preference. The text of Executive Order 12754 of March 12, 1991, is printed on the reverse side of this memorandum.

Mrs. Newman pledged to provide full support to veterans as they are released from service: "I urge all Federal agencies to give every possible employment consideration to the dedicated and talented men and women of the Armed Forces as they return to civilian life."

As Federal employees who served in the Gulf theater return to their agencies, personnel offices should remind them to present their discharge papers (DD 214) showing the medal award to receive credit for veteran preference. New Federal job candidates should claim preference on their applications. To qualify for preference, medal holders must be honorably discharged and have served either 2 years or the full period called or ordered to active duty. The Application for Federal Employment, SF-171, June 1988 edition, includes instructions to veterans on that service requirement.

We are preparing an FPM Bulletin with further information. For questions, please contact Thomas O'Connor, 202-606-1407.

Attachment (reverse)

AMERICAN
OVERSIGHT

NARA-18-1003-A-003272

FORM 148-76-4
June 1987

Presidential Documents

Executive Order 12754 of March 12, 1991

Establishing the Southwest Asia Service Medal

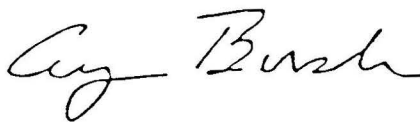
By the authority vested in me as President by the Constitution and the laws of the United States of America, including my authority as Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

Section 1. There is established, with suitable appurtenances, the Southwest Asia Service Medal. It may be awarded to members of the Armed Forces of the United States who participated in military operations in Southwest Asia or in the surrounding contiguous waters or air space on or after August 2, 1990, and before a terminal date to be prescribed by the Secretary of Defense.

Sec. 2. The Southwest Asia Service Medal may be awarded posthumously to any person covered by, and under the circumstances described in, section 1 of this order.

Sec. 3. The Secretaries of the Military Departments, with the approval of the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, are directed to prescribe uniform regulations governing the award and wearing of the Southwest Asia Service Medal.

THE WHITE HOUSE
March 12, 1991.



INTERAGENCY ADVISORY GROUP

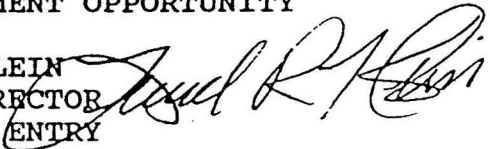
UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415

Secretariat
1900 E St., NW
(202) 632-6266

JUN 14 1991

MEMORANDUM FOR DIRECTORS OF PERSONNEL AND EQUAL EMPLOYMENT OPPORTUNITY

FROM: LEONARD R. KLEIN
ASSOCIATE DIRECTOR
FOR CAREER ENTRY



SUBJECT: NEW EMPLOYMENT BENEFITS FOR VETERANS

1. Presidential Support for Employing Veterans

The President, on March 8, 1991, directed Federal agencies to ensure that Federal civilian employment opportunities are made available to the greatest extent possible to veterans of Operation Desert Shield/Storm, particularly those who have become disabled as a result of their military service. To help Federal agencies carry out the President's mandate, this letter provides information about two major changes in the employment benefits available to veterans, (1) the Southwest Asia Service Medal, which entitles recipients to preference in Federal employment and retention, and (2) the new veterans' readjustment hiring authority.

2. Veterans' Preference for Gulf War Participants

a) To recognize the special sacrifices and outstanding performance of the Armed Forces, President Bush ordered the creation of the Southwest Asia Service Medal for active duty personnel who served in military operations in southwest Asia or in the surrounding contiguous waters or air space on or after August 2, 1990, and before a terminal date to be set by the Secretary of Defense (Executive Order 12754, March 12, 1991).

b) The military departments will publish specific eligibility criteria for awarding the medal. (Note that the National Defense Service Medal (NDSM), which was reinstated on February 21, 1991, by the Secretary of Defense, is not a campaign badge and, therefore, is not a basis for granting veterans' preference.)

c) Under civil service law (5 U.S.C. 2108), individuals who receive a campaign medal and meet the other eligibility requirements indicated below are eligible for veterans' preference in Federal employment. Thus, the more than half-

million members of our Armed Forces eligible for the Southwest Asia Service Medal--including many reservists--can claim veterans' preference. This is the largest number of service men and women to be covered since October 14, 1976, when peacetime veterans' preference ended.

d) To qualify for preference, recipients of the Southwest Asia Service Medal must have been honorably discharged and have served continuously for 24 months or the full period for which called or ordered to active duty. Reservists who are released before serving the total period originally called for, are considered to have met this requirement. In addition, no minimum service period is required for (1) veterans with compensable service-connected disabilities, or (2) those discharged or released for disabilities incurred or aggravated in the line of duty or for hardship or other reasons under 10 U.S.C. 1171 or 1173 (FPM Chapter 211).

3. Documenting Eligibility for Veterans' Preference of Employees

a) Proof of eligibility for preference generally is provided on each Certificate of Release or Discharge from Active Duty (Form DD 214) or other evidence issued by the military departments. Agencies should make sure that employees who return from active duty provide their personnel offices with copies of discharge papers or other military documents showing award of the Southwest Asia Service Medal. In some cases, the military records may not show the award of the medal at all, if, for example, the employee was discharged before the medal was authorized. The military department is responsible for notifying veterans who have separated of this medal award. Since not all returning reservists are eligible for this benefit, it is critical that personnel officials accurately determine which employees are eligible for veterans' preference and document their employment records to this effect.

b) Agencies should process an 883/Chg in Vet Pref action for each returning employee who is eligible for preference based on award of the Southwest Asia Service Medal. Agencies should cite CCM/FPM Ch 211 and ZJR/Operation Desert Shield as the authorities. The 883/Chg in Vet Pref action should be effective on the same date as the action documenting the employee's return to duty from LWOP or restoration after military separation. Both actions may be documented on the same SF 50, Notification of Personnel Action.

4. Determining Veterans' Preference Eligibility of Job Applicants

Establishing the eligibility of job applicants for veterans' preference is based on the same criteria specified in paragraphs 2 and 3 above. Some members of the Reserve and National Guard may have applied for civil service employment prior to being sent

to the Gulf. OPM area offices have been instructed to revise the examination ratings of such individuals who claim preference based on the award of the Southwest Asia Service Medal. Federal agencies with direct-hire and delegated examining authority should make a similar revision upon notification from applicants. Also, in any contact with applicants, agencies should remind those who are eligible to claim veterans' preference on their application for Federal civil service employment.

5. New Veterans' Readjustment Appointment (VRA) Authority

Section 9, attached, of P.L. 102-16, signed by the President on March 22, 1991, makes several important changes in the VRA authority listed below. The new law:

- Is effective March 23, 1991. Appointments may be made immediately on the basis of the eligibility criteria in the new law without waiting for implementing regulations. Previous VRA eligibility criteria must not be used.
- Raises the maximum entry grade level to GS 11, WG 11, or equivalent for all VRA eligibles.
- Eliminates the education limits on VRA eligibility. There is no longer any restriction on the number of years of education VRA eligibles may have.
- Changes the VRA eligibility of veterans who entered the Armed Forces on or before May 7, 1975, and continued serving after that date. Those veterans no longer qualify as post-Vietnam-era veterans, but must meet the definition of Vietnam-era veteran, to be eligible for VRA appointment. Vietnam-era veterans are eligible for VRA appointments only if they meet the general definition of "veteran" in 38 U.S.C. 2011 (i.e., they served on active duty for more than 180 days and were separated with other than a dishonorable discharge or were discharged because of a service-connected disability) and either (1) have a service-connected disability, or (2) served in Vietnam or another campaign of the Vietnam era for which a badge or medal is authorized.
- Changes the definition of post-Vietnam-era veterans from "veterans who served on active duty after May 7, 1975" to "veterans who first became a member of the Armed Forces after May 7, 1975." All post-Vietnam-era veterans are eligible for VRA appointments provided they served on active duty for more than 180 days and were separated with other than a dishonorable discharge or were discharged because of a service-connected disability (38 U.S.C. 2011).
- Changes the period of appointment eligibility. Disabled veterans who are 30 percent or more disabled have no time limit on their VRA eligibility. A Vietnam-era veteran is

eligible for a VRA appointment during the period ending 10 years after the date of the veteran's last discharge or release from active duty or until December 31, 1993--whichever is later. A post-Vietnam-era veteran is eligible for a VRA appointment within the 10 year period after the veteran's last discharge or release from active duty or December 17, 1999--whichever is later.

- Removes the December 31, 1993, expiration date from the VRA statute, thereby making the VRA authority permanent.

- Provides preference for disabled veterans over other veterans in appointments.

6. Selection Process for VRA Appointments

5 CFR Part 302 selection procedures must be followed in making VRA appointments. This assures compliance with statutory requirements that preference be provided for both disabled preference eligibles and nondisabled preference eligibles over VRA candidates who are not eligible for veterans' preference (see FPM Chapter 213).

7. Documenting VRA Appointments

Other major provisions (length of appointment, training, nature of action, and temporary appointment based on VRA eligibility) have not changed. Agencies should use the same appointing authority shown in interim regulation 5 CFR 307.103 (see FPM Bulletin 307-26, dated April 30, 1990) following the instructions in FPM Supplement 296-33, subchapter 11. Until final regulations are issued, cite in the Remarks section of the SF 50, Notification of Personnel Action, "VRA Program revised by P.L. 102-16, March 22, 1991." OPM will be issuing regulations as well as revised instructions in FPM Chapters 307 and 316 to reflect the new requirements of the law.

8. OPM and Agency Support for All Veterans

- a) While immediate attention is focused on the preference eligibles who served in Operation Desert Shield/Storm, we should not lose sight of the needs and entitlements of veterans from earlier eras, especially those who served during the Vietnam era or those who were disabled as a result of a service-connected disability. These individuals also left their regular civilian employment to join in a national military effort; their lives and the lives of their families were greatly disrupted. In recognition of the sacrifices made by members of the Armed Forces, it is essential that Federal agencies as employers take extra steps to help these individuals.

- b) To assist all veterans--those who are disabled, those from Operation Desert Shield/Storm, including those eligible for VRA, and those who served in earlier conflicts--OPM has designated a staff member in each area office and the Washington

Area Service Center as a contact point for inquiries from and about veterans. A one-page fact sheet for VRA applicants, which includes a list of these contacts, is attached. OPM is pledged to provide full support to veterans. We urge Federal agencies to give every possible employment consideration to the dedicated and talented men and women of the Armed Forces as they return to civilian life.

Attachments

NEW--FOR VETERANS

Veterans Readjustment Appointments

Expanded Job Opportunities in the Federal Service

Public Law 102-16, effective March 23, 1991, makes it even easier for Federal agencies to hire Armed Forces veterans who served during and after the Vietnam era.

The VRA (Veterans Readjustment Appointment) authority is a special hiring program. Eligible veterans do not have to take examinations or compete with nonveteran candidates. VRA appointees are initially hired for a 2-year period. Successful completion of the 2-year VRA appointment leads to a permanent civil service appointment.

Who Is eligible for a VRA appointment?

Veterans who served more than 180 days active duty, any part of which occurred during the Vietnam era (August 5, 1964 to May 7, 1975), and have other than a dishonorable discharge, are eligible if they have (1) a service-connected disability or (2) a campaign badge (for example, the Vietnam Service Medal).

Post-Vietnam-era veterans, who entered the service after May 7, 1975, are eligible if they served on active duty for more than 180 days and have other than a dishonorable discharge.

The 180-day service requirement does not apply to veterans discharged from active duty for service-connected disability.

How long are veterans eligible for VRA appointments after they leave the service?

Vietnam-era veterans qualify for a VRA appointment until 10 years after discharge or until December 31, 1993, whichever date is later.

Post-Vietnam-era veterans are eligible for 10 years after the date of their last discharge or until December 17, 1999, whichever date is later.

Eligible veterans with a service-connected disability of 30% or more can be hired without time limit.

Are there any other restrictions on eligibility for a VRA appointment?

Under the new VRA law, all veterans described above are eligible. (The law eliminated a previous requirement that VRA appointees have fewer than 16 years of education.)

What jobs can be filled under the VRA authority?

Federal agencies now can use the VRA authority to fill any white collar position up through GS 11, blue collar jobs through WG 11, and equivalent jobs under other Federal pay systems.

How do veterans apply for VRA appointments?

Veterans should contact the agency personnel office where they want to work. Agencies recruit candidates and make VRA appointments directly without getting a list of candidates from OPM. Veterans can get a list of local agency personnel offices from the Veterans Representative at the OPM offices listed on the back of this sheet.

Are disabled veterans entitled to special consideration?

Agencies must give preference to disabled veterans over other veterans.

Is training available after appointment?

In some cases, agencies provide special training programs for VRA appointees. A program could include on-the-job assignments or classroom training.

Can VRA appointees work part-time?

Agencies may be able to set up part-time work schedules for individuals who want to attend school or handle family or other responsibilities.

(over)



United States
Office of
Personnel

Career Entry Group
Staffing Policy Division

1900 E Street, NW
Washington, DC 20415-0001

NARA 18-1003-A-003279

June 1991

**U.S. Office of Personnel Management
Area Office Veterans Representatives for Employment Inquiries**

<p>Alaska Lockenberry Fairbanks Area Office 544-5130</p> <p>.....</p> <p>Alaska Busteed Fairbanks Area Office 271-3617</p> <p>.....</p> <p>Arizona Mallin Phoenix Area Office 640-5809</p> <p>.....</p> <p>Arkansas Oklahoma)</p> <p>.....</p> <p>California Andre Los Angeles Area Office 575-6507</p> <p>.....</p> <p>Chen Fong Young San Francisco Area Office 551-3275</p> <p>.....</p> <p>Gunby San Francisco Area Office 744-7216</p> <p>.....</p> <p>Colorado Veden Denver Area Office 969-7036</p> <p>.....</p> <p>Connecticut Dubois Hartford Area Office 240-3607</p> <p>.....</p> <p>Delaware Philadelphia, PA)</p> <p>.....</p> <p>District of Columbia Sam Robinson Washington Area Service Ctr.) 606-1848</p> <p>.....</p> <p>Florida McFadyen Tampa Area Office) 648-6150</p> <p>.....</p> <p>Georgia Walker Atlanta Area Office) 331-4588)</p> <p>.....</p> <p>Hawaii Les Tamabayashi Honolulu Area Office) 541-2790</p> <p>.....</p>	<p>Idaho (See Washington State)</p> <p>.....</p> <p>Illinois Victoria Jones Chicago Area Office (312) 353-8799</p> <p>.....</p> <p>Indiana Sharon Ellet Indianapolis Area Office (317) 226-6245</p> <p>.....</p> <p>Iowa (See Kansas City, MO)</p> <p>.....</p> <p>Kansas Verla Davis Wichita Area Office (316) 269-6797</p> <p>.....</p> <p>Kentucky (See Ohio)</p> <p>.....</p> <p>Louisiana Melody Silvey New Orleans Area Office (504) 589-2768</p> <p>.....</p> <p>Maine (see New Hampshire)</p> <p>.....</p> <p>Maryland Thomas Platt Baltimore Area Office (301) 962-3222</p> <p>.....</p> <p>Massachusetts Donald MacGee Boston Area Office (617) 565-5926</p> <p>.....</p> <p>Michigan Thomas Bixler Detroit Area Office (313) 226-2095</p> <p>.....</p> <p>Minnesota Paul McMahon Twin Cities Area Office (612) 725-3633</p> <p>.....</p> <p>Mississippi (See Alabama)</p> <p>.....</p>	<p>Missouri Richard Krueger Kansas City Area Office (816) 426-5705</p> <p>.....</p> <p>Kirk Hawkins St. Louis Area Office (314) 539-2341</p> <p>.....</p> <p>Montana (See Colorado)</p> <p>.....</p> <p>Nebraska (See Kansas)</p> <p>.....</p> <p>Nevada (See Sacramento, CA)</p> <p>.....</p> <p>New Hampshire Gloria Dunn Portsmouth Area Office (603) 433-0744</p> <p>.....</p> <p>New Jersey Don Hodge Newark Area Office (201) 645-2376</p> <p>.....</p> <p>New Mexico Rosa Benavidez Albuquerque Area Office (505) 766-1099</p> <p>.....</p> <p>New York Walter Cashin New York Area Office (212) 264-0442</p> <p>.....</p> <p>Larry Burkett Syracuse Area Office (315) 423-5650</p> <p>.....</p> <p>North Carolina Ayn Clayborne Raleigh Area Office (919) 790-2817</p> <p>.....</p> <p>North Dakota (See Minnesota)</p> <p>.....</p> <p>Ohio John McConnell Dayton Area Office (513) 225-2529</p> <p>.....</p> <p>Oklahoma Dan Henderson Oklahoma City Area Office (405) 231-4613</p> <p>.....</p> <p>Oregon (See Washington State)</p> <p>.....</p>	<p>Pennsylvania John Glooch Harrisburg Field Office (717) 782-4546</p> <p>.....</p> <p>Gene Hyden Philadelphia Area Office (215) 597-7670</p> <p>.....</p> <p>George Horn Pittsburgh Area Office (412) 644-4355</p> <p>.....</p> <p>Puerto Rico Vivien Fernandez San Juan Area Office (809) 766-5620</p> <p>.....</p> <p>Rhode Island (See Connecticut)</p> <p>.....</p> <p>South Carolina (See North Carolina)</p> <p>.....</p> <p>South Dakota (See Minnesota)</p> <p>.....</p> <p>Tennessee Ralph Buntin Memphis Area Office (901) 544-3958</p> <p>.....</p> <p>Texas Frank McLemore Dallas Area Office (214) 767-9133</p> <p>.....</p> <p>Jose Borrero San Antonio Area Office (512) 229-6613</p> <p>.....</p> <p>Utah (See Colorado)</p> <p>.....</p> <p>Vermont (See New Hampshire)</p> <p>.....</p> <p>Virgin Islands (See Puerto Rico)</p> <p>.....</p> <p>Virginia Valerie DeMels Norfolk Area Office (804) 441-3362</p> <p>.....</p> <p>Washington (State) Robert Coleman Seattle Area Office (206) 553-4691</p> <p>.....</p> <p>West Virginia (See Ohio)</p> <p>.....</p> <p>Wisconsin (See Illinois)</p> <p>.....</p> <p>Wyoming (See Colorado)</p> <p>.....</p>
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NARA-18-1003-A-003280

Section 9 of Public Law 102-16 amended 38 U.S.C. 2014, the authority for veterans' readjustment appointments. Here is the text of section 2014, as amended. The language added by the new law is underlined.

Section 2014. Employment within the Federal Government

(a)(1) The United States has an obligation to assist veterans of the Armed Forces in readjusting to civilian life since veterans, by virtue of their military service, have lost opportunities to pursue education and training oriented toward civilian careers. The Federal Government is also continuously concerned with building an effective work force, and veterans constitute a major recruiting source. It is, therefore, the policy of the United States and the purpose of this section to promote the maximum of employment and job advancement opportunities within the Federal Government for disabled veterans and certain veterans of the Vietnam era and of the post-Vietnam era who are qualified for such employment and advancement.

(2) For the purposes of this section, the term "agency" means a department, agency, or instrumentality in the executive branch.

(b)(1) To further the policy stated in subsection (a) of this section, veterans referred to in paragraph (2) of this subsection shall be eligible, in accordance with regulations which the Office of Personnel Management shall prescribe, for veterans readjustment appointments, and for subsequent career-conditional appointments, under the terms and conditions specified in Executive Order Numbered 11521 (March 26, 1970) except that-

(A) such an appointment may be made up to and including the level GS-11 or its equivalent;

(B) a veteran shall be eligible for such an appointment without regard to the number of years of education completed by such veteran;

(C) a veteran who is entitled to disability compensation under the laws administered by the Department of Veterans Affairs or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty shall be given a preference for such an appointment over other veterans;

(D) a veteran receiving such an appointment shall-

(i) in the case of a veteran with less than 15 years of education, receive training or education; and

(ii) upon successful completion of the prescribed probationary period, acquire a competitive status; and:

(E) a veteran given an appointment under the authority of this subsection whose employment under the appointment is terminated within one year after the date of such appointment shall have the same right to appeal that termination to the Merit Systems Protection Board as a career or career-conditional employee has during the first year of employment.

(2) This subsection applies to-

(A) a veteran of the Vietnam era who-

(i) has a service-connected disability; or

NARA-18-1003-A-003281

(ii) during such era, served on active duty in the Armed Forces in a campaign or expedition for which a campaign badge has been authorized; and

(B) veterans who first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces after May 7, 1975, and were discharged or released from active duty under conditions other than dishonorable.

(3)(A) Except as provided in subparagraph (C) of this paragraph, a veteran of the Vietnam era may receive an appointment under this section only during the period ending-

(i) 10 years after the date of the veteran's last discharge or release from active duty; or

(ii) December 31, 1993, whichever is later.

(B) Except as provided in subparagraph (C) of this paragraph, a veteran described in paragraph (2)(B) of this subsection may receive such an appointment only within the 10-year period following the later of-

(i) the date of the veteran's last discharge or release from active duty; or

(ii) December 18, 1989.

(C) The limitations of subparagraphs (A) and (B) of this paragraph shall not apply to a veteran who has a service-connected disability rated at 30 percent or more.

(D) For purposes of clause (i) of subparagraphs (A) and (B) of this paragraph, the last discharge or release from active duty shall not include any discharge or release from active duty of less than ninety days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force described in section 1411(a)(1)(A)(ii)(III) of this title or of an involuntary separation described in section 1418A(a)(1).

U.S. DEPARTMENT
OF JUSTICE

Order

DOJ 2830.4

Mar. 4, 1987

Subject: ADMINISTRATIVE COMPUTER SUPPORT FOR HANDICAPPED EMPLOYEES

1. PURPOSE. This order assigns administrative responsibility for assistance in securing computer support of handicapped employees to the Justice Management Division.
2. SCOPE. The policies and related functions of this order apply to all Department of Justice offices, boards, divisions, and bureaus (OBDB's).
3. DEFINITIONS.
 - a. Computer Accommodation. Acquisition and modification of end user computing equipment to accommodate functional limitations of employees to provide access to information resources and to increase employee productivity.
 - b. Handicapped or Disabled Employee. In this order, the terms handicapped and disabled are used interchangeably and mean any person who has a physical or mental impairment that substantially limits one or more life activities, who has a record of such impairment, or who is regarded as having such an impairment.
 - c. Integrated Office Automation System. A system in which office components communicate under a unified software system, thereby allowing users at multiple locations to input, access, and output shared data.
 - d. Office Automation. The application of modern information processing technologies to such office functions as word processing, graphics, records management, messages, and mail and voice communications.

Distribution: BUR/H-1
OBD/H-1
OBD/F-2
SPL-23

Initiated By: Information Systems Staff
Justice Management Division

AMERICAN
OVERSIGHT

NARA-18-1003-A-003283

POLICIES.

- a. Supervisors are required to coordinate with the Director, Information Systems Staff, Justice Management Division, the integration of each handicapped employee to an automation system or equipment when the employee's essential job tasks must be performed on such systems or equipment.
- b. The Information Systems Staff shall serve as a referral and resource center and shall provide information and assistance to disabled employees and their managers in securing computer accommodations and training.
- c. The Information Systems Staff shall document instances of successful computer accommodations via the General Services Administration (GSA) Computer Accommodation Worksheet and will update Department of Justice computer accommodation records annually.
- d. In developing computer accommodation strategies for handicapped employees, the individual employees affected should be consulted when determining specific software and terminal/input device requirements. Managers are required to acquire generic, off-the-shelf software and hardware from commercial sources whenever possible.

ASSIGNMENT. Effective immediately, program management responsibility for computer-related support of handicapped employees within the Department of Justice is assigned to the Director, Information Systems Staff, Justice Management Division.

FUNCTIONS. The Director, Information Systems Staff, is responsible for the following functions related to computer support of disabled employees:

- a. Developing internal policies and procedures for computer support of handicapped employees.
- b. Applying existing automated information technologies to practical applications for disabled employees and keeping abreast of sophisticated technologies useful to employees with severe functional limitations.
- c. Providing technical advice and assistance to handicapped employees and their managers.

- d. Assisting managers of disabled employees with acquiring computer accommodations -- hardware and software -- and for physical and data security when necessary.
- e. Exchanging information on successful and/or updated computer accommodations in place for disabled employees with the GSA Clearinghouse on Computer Accommodations.
- f. Representing the Department of Justice on the Inter-agency Committee for Computer Support of Handicapped Employees.
- g. Representing the Department of Justice at conferences or meetings concerning computers and disabled people.

7. RESPONSIBILITIES.

- a. The Director, Information Systems Staff, shall coordinate implementation of this order and develop related policies and procedures.
- b. The Director, Personnel Staff, Justice Management Division, in coordination with the Director, Information Systems Staff, shall ensure that all handicapped employees within the Offices, Boards, and Divisions are aware of the services available under this order.
- c. The Directors of Personnel within the Bureaus, in conjunction with the Director, Information Systems Staff, will ensure that disabled employees within their respective Bureaus are aware of the services available under this order.



HARRY H. FLICKINGER
Acting Assistant Attorney General
for Administration

WHERE TO START, WHERE TO TURN FOR HELP

As always, the first step is communication. If you are a supervisor, look for ways in which IRAD can assist current employees, or help you when filling a vacancy. If you are an employee with a disability, talk to your supervisor about your needs and investigate electronic accommodations that can help you function more efficiently on the job. If you manage a DOJ program or facility; think about ways to improve access for people with disabilities.

IRAD is a resource that allows you to find out about the latest accommodations equipment, assists in acquisition, and help you build a better environment for everyone. For more information, contact:

IRAD

Information Resource Accommodations for
the Disabled.

Legal and Information Systems Staff
Information Resources Management
Justice Management Division
425 I Street, NW
Chester Arthur Building (CAB), Room 1127
Washington, DC 20530
(202) 514-5674
FAX: (202) 514-3590
FTS: (368) 514-5674
TDD: (202) 514-0535

U.S. Department of Justice
Justice Management Division
*Information Resources Management
Legal and Information Systems Staff*



FINDING THE RESOURCES FOR TALENT AND TECHNOLOGY

In today's competitive market place, skilled employees are a precious asset. The Department of Justice (DOJ) is constantly on the lookout for talent. With the right accommodations, people with disabilities can be productive employees of the DOJ workforce.

In keeping with Federal government's commitment to affirmative action in hiring, placement, and advancement of people with disabilities, DOJ has established an Information Resource Accommodations for the Disabled Program (IRAD). The program is intended to eliminate those barriers within electronic office equipment accessibilities for disabled people who use DOJ facilities and participate in DOJ programs and activities.

The goal is to make people with disabilities productive members of the DOJ workforce and mainstream participants in the DOJ community. IRAD serves by providing electronic

office equipment accessibility support to all DOJ employees:

- *Expert assistance in making the electronic environment accessible to people with disabilities.*
- *Assistance in training and education.*
- *Assistance in supplemental resources which can be used to obtain accommodations.*
- *Identification of hardware, software, firmware and other adaptive devices that will meet the specific needs of individual employees with disabilities.*

EMPLOYEES WITH DISABILITIES

IRAD assists in accommodations for these and other disabilities:

Visual Impairment - talking terminals, reading machines, braille printers, and other such equipment.

Deafness and Hearing Impairment - electronic communication support

equipment, such as Telecommunications Devices for the Deaf (TDDs) and American Sign Language interpreting services.

Mobility and Dexterity Impairment - voice activated equipment and other new advances in technology.

Cognitive Impairment - modified software, hardware, and firmware; speech synthesizers, voice recognition technology.

IRAD offers expertise and resources to assist individuals in the DOJ community who need electronic accommodations. These accommodations allow people with disabilities to reach their full potential as members of an office team.

*With the right accommodations,
people with disabilities
have the power to excel.*



Veterans
Administration

MAY 16 1988

In Reply Refer To: 226B

Ms. Arlene Hudson
Coordinator - Veterans Employment
Department of Justice
NALC Bldg., 5th Fl. Annex
100 Ind. Ave., NW
Washington, DC 20530

Dear Ms. Hudson:

The VA has the ability to help you locate and hire qualified candidates for federal jobs. The VA Vocational Rehabilitation and Counseling Officers on the enclosed directory--in many cases--can match well-trained disabled veterans to your job openings and most of these veterans are eligible for special appointment authorities that make hiring quick and efficient.

Earlier this year the Honorable Constance Horner, director of the Office of Personnel Management, wrote to Federal Executive Boards across the country to remind them "of the Federal Government's policy to promote employment and job advancement opportunities for qualified disabled veterans." She noted that several special noncompetitive appointment authorities exist to allow federal agencies to meet the requirements of their Disabled Veterans Affirmative Action Programs (DVAAP). The most important are section 3112 of title 5, U.S. Code, which permits noncompetitive appointment of veterans with service-connected disabilities of 30 percent or more, and section 2014(b) of title 38, U.S. Code, the Veterans Readjustment Authority for Vietnam Era veterans. The mandate is there, the hiring authorities are in place, so the question becomes: Where does one find qualified disabled veterans?

Across the country approximately 30,000 disabled veterans are currently participating in the VA's vocational rehabilitation program. Some 3,500 have completed training and are now actively seeking employment. We can't fill every opening every time, but in our program each veteran follows an individualized rehabilitation plan, so you will find applicants trained for a wide variety of jobs from clerical positions to skilled labor and from technical positions such as computer systems operators to white-collar management.

In addition to the noncompetitive appointment authorities cited above, we also urge you to consider use of our "unpaid work experience" program. The VA is able to place vocational

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rehabilitation participants in any federal agency for the purpose of training or gaining work experience necessary to qualify the veteran for employment. Such a veteran is a VA trainee--not a federal employee. Following a successful training experience, however, the agency may appoint the veteran noncompetitively to the same position or another for which he or she is qualified. More information on this program is contained in the enclosed "white paper" on veterans preference and special hiring authorities.

Here in the Washington area, your primary source of qualified disabled veterans is the VA Regional Office in Washington, D.C. The address and phone number of the vocational rehabilitation office is listed in the enclosed directory. We have 57 Regional Offices around the country and, for the most part, each office has jurisdiction over the state in which it is located. You may find it advantageous for your field offices to develop close liaison with the nearest VA vocational rehabilitation office in the state. Here at the VA Central Office we can also use electronic mail to canvass our regional offices and locate qualified veterans who are willing to relocate.

If you have questions about how VA Vocational Rehabilitation can help you recruit excellent workers to meet the needs of your agency, please contact Mr. William Jayne or Mr. Kim Graham on my staff. They may be reached at 202/233-2026 or 233-5456.

Sincerely,



DENNIS R. WYANT, Ed.D.
Director, Vocational Rehabilitation
and Education Service

Enclosures

VETERANS PREFERENCE AND SPECIAL APPOINTMENT PROGRAMS

IN THE FEDERAL GOVERNMENT

Veterans Administration

Vocational Rehabilitation and Counseling

VETERANS' PREFERENCE AND SPECIAL APPOINTMENT PROGRAMS
IN THE FEDERAL GOVERNMENT

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VETERANS' PREFERENCE AND SPECIAL APPOINTMENT PROGRAMS

1. INTRODUCTION

a. This white paper describes the provisions which give special emphasis to the needs of disabled veterans in Federal employment. Implementing these provisions is a governmentwide responsibility. Nonetheless, the VA's Vocational Rehabilitation and Counseling Division (VR&C) has a special role to play because of its central mission; to assist disabled veterans in their efforts to overcome the effects of disabilities connected with their service in the armed forces of the United States. VR&C seeks to work closely with Federal Selective Placement Coordinators and other Federal officials to enhance job opportunities for disabled veterans and to assist other agencies in meeting their obligations.

2. VETERANS' PREFERENCE IN FEDERAL EMPLOYMENT

Special consideration is given to all qualified veterans seeking Federal employment. Veterans preference is intended to provide a uniform method of applying this consideration.

a. Five-point Preference. Five-point preference is given to all veterans who served on active duty in the armed forces of the United States provided they were discharged under honorable conditions and served under at least one of the following sets of circumstances:

1. Served during any war:

World War II--December 7, 1941 through December 31, 1946.

Korea--June 27, 1950 through January 31, 1955

Vietnam--August 5, 1964 through May 7, 1975

2. For those who enlisted after September 7, 1980 and served continuously for 24 months or the full period of time for which they were called or ordered to active duty, they must have served in a campaign or expedition for which a campaign badge has been authorized (including Lebanon and Grenada). Post-1980 enlistees who incurred a disability which the Veterans Administration determines is compensable are excluded from the 24-month limit.

3. Served for more than 180 consecutive days, any part of which occurred after January 31, 1955 and before October 15, 1976. (An initial period of active duty for training under the six-month Reserve or National Guard programs in force during this period does not earn veterans preference).

Note that under P.L. 95-454 retired members of the armed forces above the rank of major or the equivalent were no longer considered preference eligibles after October 1, 1980--unless they are disabled veterans.

b. Ten-Point Preference. Disabled veterans receive a ten-point preference. A disabled veteran is an honorably discharged veteran

who served on active duty in the armed forces at any time and who either has a service-connected disability (VA) or is receiving compensation, disability retirement benefits or pension under laws administered by the Veterans Administration, Army, Navy, Air Force, Marine Corps or Coast Guard. A veteran who has been awarded the Purple Heart for wounds received in action is considered to have a service-connected disability for this purpose.

c. Administration of Veterans Preference. Persons who meet the criteria for veterans preference are referred to as "veterans preference eligibles." Either five or ten points is added to the numerical ratings they achieve in open, competitive examinations for appointment to jobs in the Federal civil service. Currently, there is no objective test for entry-level professional and managerial openings in the Federal government. Tests do exist for entry-level (up to GS-4) clerical positions and some technical positions. In cases in which a test is used to rank applicants, veterans preference is applied in the traditional manner. Where no test is in use, OPM specialists subjectively rate the applicants according to established guidelines and attempt to add veterans preference points to augment the assessments they have arrived at. The extra points cause the names of veterans preference eligibles to stand higher on lists of persons eligible for appointment. If a ten-point preference eligible is included on a register of qualified applicants supplied by OPM to the agency appointing official, that official must justify in writing

a decision not to hire the veteran. Getting on a register does not guarantee that a veterans preference eligible will get a job. The individual must be selected by an appointing official of a government agency. In some cases, competition for vacancies may be restricted to veterans preference eligibles and there are provisions by which veterans may re-open examinations. Veterans preference also comprises credit for time spent on active duty in computing experience and, under certain conditions, waiver of physical job requirements. Veterans preference confers special consideration in layoff situations and reinstatement situations, as well.

3. VETERANS READJUSTMENT APPOINTMENTS

See pages 6,7, and Attachment 1, within the Selective Placement Program Appointment Authority which is attached to the Special Guidance (Appendix A) of this Plan Update.

See also, pages 3,4, and 5 of the memorandum from the Interagency Advisory Group (OPM), dated June 14, 1991, subject: "New Employment Benefits for Veterans," contained within Appendix A.

4. NONCOMPETITIVE APPOINTMENTS FOR CERTAIN COMPENSABLY DISABLED VETERANS

a. Thirty Percent Disabled. Under 5 U.S.C. 3112, a disabled veteran who has a compensable service-connected disability of 30 percent or more may be given a noncompetitive appointment in a Federal agency provided the veteran meets the job qualification standards. This appointment may lead to conversion to career or career-conditional employment. Many agencies find use of this special appointment authority to be an expeditious and effective way of meeting sudden and critical personnel shortages. A key point to note is the authority to convert from a temporary appointment to permanent status after a relatively brief period of temporary employment. Procedures for these appointments and conversion to permanent status are contained in FPM, chapter 316.

5. UNPAID TRAINING OR WORK EXPERIENCE

a. Training in Civil Service. In addition to veterans preference, VRA and the special 30 percent appointment authority, a disabled veteran may work for a Federal agency while he or she is training under 38 U.S.C chapter 31 (VA vocational rehabilitation). Subsequently, the veteran may receive a noncompetitive appointment to a vacancy for which the training has qualified him or her. Placement does not have to be in the agency in which the veteran trained.

b. Authority. Under 38 U.S.C. 1515 the VA may use the facilities of any Federal agency to provide training or work experience as a part or all of a VA vocational rehabilitation program either without pay or for nominal pay.

(1) Considerations of Federal Laws. This unpaid training or work experience may be authorized without regard to the compensation requirements of the Fair Labor Standards Act or the prohibition in 31 U.S.C. 665(b) against Federal agencies' acceptance of voluntary services. Veterans in this training or work experience are considered Federal employees only for the employees' job-related disability protections provided under chapter 81 of title 5 U.S.C., but not for any other purposes of laws administered by OPM (Office of Personnel Management).

(2) Noncompetitive Appointment Following Training. OPM regulations provide that veterans trained in Federal agencies under a chapter 31 (VA voc-rehab) work experience or unpaid or minimally paid OJT may, on completion of training, be appointed noncompetitively to a position of the kind for which the training has qualified them. This training may lead directly to employment either in the training establishment or in another Federal agency. (38 CFR 21.299)

c. Determination as to Use of Unpaid Federal Agency Training. The VR&C counseling psychologist and the VR&C vocational rehabilitation specialist will collaborate to prepare the determination as to the need for training on a nonpay or nominally paid basis in a Federal agency. This training may be all or part of a veteran's program of rehabilitation. This determination will be based on an analysis of the veteran's needs as indicated by his

or her disability, education and work experience, employment goal, and other pertinent factors in relation to available training resources and the requirements for restoration of employability. For example, training on an unpaid basis in a Federal agency may be indicated under the following circumstances:

(1) Training in a work setting will best meet the veteran's needs but, because of the veteran's condition or other reasons, it is not feasible to develop suitable on-job training either with a private employer or on a competitive basis in a Federal agency.

(2) The veteran needs a period of work experience during or subsequent to a program of institutional training either for transitional purposes or to establish employability in the selected vocational objective.

(3) It is in the veteran's interest to train in a Federal agency because his or her goal is a career with the Federal Government. Successful completion of the training or work experience should place the veteran in an advantageous position for entry into the Federal service because the training is directly related to the requirements of the position and because the veteran may be noncompetitively appointed to the position.

d. Development of Training Program.. The development of the training program with the Federal agency is the responsibility of

the vocational rehabilitation specialist (VRS). Guidelines for implementing on-job training for disabled veterans under chapter 31 authority are contained in FPM, chapter 315, appendix B.

Chapter 31 unpaid or nominally paid trainees may not replace or be used in lieu of regular employees for whom funds and a personnel ceiling have been provided.

e. Benefits and Services. Veterans in work experience on a nonpay or nominally paid basis receive the same VA benefits and services as other disabled veterans in training under chapter 31. Veterans will receive subsistence allowance from the VA at the institutional rate specified by law. Supplies are authorized in the same manner as for on-job trainees. Since the trainee does not receive a normal on-job training wage rate, he or she will receive the maximum allowable VA subsistence rate throughout the period of training. Work experience may be undertaken on a full-time, three-quarter-time, or half-time basis, with subsistence allowance commensurate with training time.

The benefits to the hiring agency may also be substantial. While the veteran cannot be used to circumvent funding and personnel ceilings, the agency can augment its workforce with the addition of a highly motivated disabled veteran. Moreover, it provides agencies with the opportunity to provide in-depth specialized training suited to their job requirements.

f. Participants Are Not Federal Employees. Veterans in on-job training or work experience on a nonpay basis are not considered Federal Government employees for OPM purposes and do not receive leave or other employee benefits, with one exception: They are eligible for compensation under the Federal Employees Compensation Act. As with other trainees under chapter 31, they are eligible under 38 U.S.C. 351 for additional disability compensation if they suffer injury in the course of rehabilitation which results in additional disability. Similarly, if the veteran dies as a result of injury on the job, his or her dependents are eligible for survivors' benefits as if the death were service-connected.

6. COORDINATION WITH OPM AND FEDERAL AGENCIES

Although ample authority exists to place disabled veterans in Federal civil service jobs or training positions, action is required on the part of both the VA and the hiring agency--as well as the veteran--to make the system work. The VA's VR&C Service is charged with the responsibility to advocate on behalf of disabled veterans and work with other agencies to produce the cooperation needed. Agency officials may contact VR&C staff on any of the matters touched on in this white paper. A directory of the VA's regional structure of 57 offices around the country is available. The geographical jurisdictions of most offices follow state boundaries.

7. DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM

The Disabled Veterans Affirmative Action Program (DVAAP) was developed to promote recruitment, employment and job advancement opportunities within the Federal government for qualified disabled veterans. Agencies have primary responsibility for establishing and overseeing DVAAP and are required to develop a plan of specific action items which they will follow when implementing their program. The VA's vocational rehabilitation staff is available to assist agencies with the hiring of disabled veterans and may also offer job analysis and information on job modifications to accommodate disabled veterans.

LIST OF VBA STATIONS
VR&C OFFICERS (28)

<u>NUMBERS</u>	<u>STREET ADDRESS</u>	<u>NAME</u>	<u>PHONE NUMBER</u>
<u>STATION</u>			<u>FTS</u> <u>LOCAL</u>
Albuquerque, NM 87102 (340)	Dennis Chavez Federal Building 500 Gold Ave., SW	Chuck Perkins	8-474-2221 2222 or 2286 (505) 766-3361
Anchorage, AK 99501 (363)	235 East 8th Avenue	Frank Pierce FAX #8-868-2291 #907-271-2291	8-868-2221 or 2292 (907) 271-2221 or 2292
Atlanta, GA 30365 (316)	730 Peachtree St., NE	Patrick Sweeney FAX #8-347-0088	8-257-3791 (404) 347-3791
	<u>Outstation</u> Vet Center 8110 White Bluff Rd. Savannah, GA 31406	Marshall Acree, C.P.	8-248-4216 (912) 944-4216
	VA Field Office P.O. Box 1645 (mailing) 112 Pine Ave. Albany, GA 31702	Michael T. Allen, C.P. FAX #8-230-6535	
Baltimore, MD 21201 (313)	Federal Building	Michael D. Tomsey FAX #8-922-2334	8-922-4678 (301) 962-4678
Boise, ID 83724 (347)	Federal Building & US Court House	James Sherer FAX #8-554-9066	8-554-1063 (208) 334-1063
Boston, MA 02203 (301)	JFK Federal Building Government Center Room 401D	James T. Bradley	8-835-2630 (617) 835-2630
Buffalo, NY 14202 (307)	Federal Building 111 W. Huron Street	John J. Grandits FAX #8-437-5388	8-437-5262 (716) 846-5262
Chicago, IL 60680 (328)	536 So. Clark Street P.O. Box 8136	Kathy Kruger FAX #8-353-2907	8-353-4005 (312) 353-9478
	<u>Outstation</u> Southern IL Univ. Edwardsville, IL	Glen Mills, C.P.	(618) 692-2863
	Bradley Univ. Peoria, IL	Les Alper, C.P.	(309) 677-2414
Cleveland, OH 44199 (325)	Anthony J. Celebrezze Federal Building 1240 East 9th Street	FAX #8-942-3519	8-942-2583 (216) 522-3534

NUMBERS

PHONE NUMBER

STATION

STREET ADDRESS

NAME

FTS
LOCALOutstation

Society Bank Building
DVA
VR&C Division
Suite 210A
36 East 7th Street
Cincinnati, OH 45202

Bruce Holderead, CIC
FAX #8-684-2660

8-684-2663

Department of Veterans Affairs
VR&C Division - Room 309

200 N. High Street
Columbus, OH 43215

Kevin Murray, CIC
FAX #8-943-2245

8-943-6642

Columbia, SC
29101 (319)

1801 Assembly St.

J. Glenn Harrison

8-677-5272
(803) 765-5271

Denver, CO
80225 (339)

P.O. Box 25126

John T. Copper

8-326-2777
(303) 980-2777

Outstation

1785 N. Academy Blvd.
Colorado Springs, CO 80909

(719) 380-0004

Cheyenne, WY
82001

2360 E. Pershing Blvd.

8-328-7338
(307) 778-7338

Des Moines, IA
50309 (333)

210 Walnut Street
Suite 1079

Jack Hackett
FAX #8-862-4208
(515) 284-4208

8-862-4373
(515) 284-4373

Detroit, MI
48226 (329)

Patrick V. McNamara
Federal Building
477 Michigan Avenue

Robert Dickow
FAX #8-226-4370

8-226-4308
(313) 226-4300

Outstations

VA Medical Center
Iron Mountain, MI 49801

8-769-2296

VA Guidance Center
Student Services Bldg. #14
Michigan State Univ.
East Lansing, MI 48824

8-374-6861

VA Office
260 Jefferson S.E. #218
Grand Rapids, MI 49503

8-372-2561

Fargo, ND
58102 (437)

655 First Ave., North
(street address)
2101 Elm Street
(mailing address)

FAX #8-239-5370

8-783-5637
or 5684
(701) 239-5637
or 239-5684

Fort Harrison, MT
59636 (436)

VAMC&RO

Fred Jense
FAX #8-585-7679

8-585-7636
(406) 442-6410
Ext. 274

MEMBERS

<u>STATION</u>	<u>STREET ADDRESS</u>	<u>NAME</u>	<u>FTS</u> <u>LOCAL</u>
Hartford, CT 06103 (308)	450 Main Street	James Malley FAX #8-244-3714	8-244-3396 (203) 240-3396
Honolulu, HI 96850 (359)	PJJK Building 300 Ala Moana Blvd. P.O. Box 50188 (mailing address)	Thomas A. Akamu	8-551-1500 (808) 541-1500
Houston, TX 77054 (362)	2515 Murworth Dr.	Dawson Warren FAX #8-526-2044 713-660-4044	8-526-2308 (713) 660-4308
	<u>Outstation</u> 3601 Bluemel San Antonio, TX 78229	Carl Maurer, C.P.	8-730-2540
Intington, WV 25701 (315)	640 Fourth Avenue	Malcolm Farmer	8-924-5743 (304) 529-5743
Indianapolis, IN 46204 (326)	575 N. Pennsylvania Street	Don K. Back	8-331-7906 (317) 226-7906
Jackson, MS 39269 (323)	VARO Federal Building 100 W. Capitol St.	M. Selby Parker FAX #8-965-5798	8-490-4862 (601) 965-4861
Lincoln, NE 68516 (334)	5631 South 48th St.	Mark E. Brady	8-541-5011 (402) 437-5011
	<u>Outstation</u> VAMC-282 4101 Woolworth Ave. Omaha, NE 68105	Bob Hennings, C.P.	8-860-4323 (402) 346-8800 Ext. 4323
Little Rock, AR 72215 (350)	Bldg. 65 Ft. Root North Little Rock, AR	Ray Ortega FAX #8-740-3876	8-740-3780 (501) 370-3780
Los Angeles, CA 90024 (344)	Federal Building 11000 Wilshire Blvd.	Gloria Young	8-793-7588 (213) 575-7588
Louisville, KY 40202 (327)	Federal Office Bldg. 600 Martin Luther King, Jr. Place	Leonard Mullins	8-352-5836 (502) 582-5836
Manchester, NH 03101 (373)	275 Chestnut St. Norris Cotton Federal Building	Jerry Ferrari	8-834-7475 (603) 666-7475
Manila, PHIL 96528 (358)	U.S. Embassy Ofc. Bldg. 1131 Roxas Blvd. 1000 Manila P.I. APO San Francisco	Aurora Palacio	

NUMBERS

PHONE NUMBER

STATION	STREET ADDRESS	NAME	FTS LOCAL
Milwaukee, WI 53295 (330)	5000 West National Ave. Building #6	Terrence P. Collins FAX #383-5020	8-383-5181 (414) 382-5180
	<u>Outstation</u> 2125 Heights Dr. #2A Eau Claire, WI 54705	Randy Lundblad, C.P.	(715) 834-2154
Montgomery, AL 36104 (322)	474 South Court St.	Bobby Wise	8-534-7145 (205) 223-7145
	<u>Outstation</u> 951 Government St. Room 210 Mobile, AL 36604		8-537-2145
	600 Beacon Parkway West Suite 755 Birmingham, AL 35209		8-229-0762
Muskogee, OK 74401 (351)	125 Main St. Federal Building	Peter J. Furek	8-736-2143 (918) 687-2143
	<u>Outstation</u> VA Counseling Office 635 W. 11th St. #202 Tulsa, OK 74127		8-736-7939 (918) 581-7939
	A.P. Murrah Federal Building 200 N.W. 5th St. #522 Oklahoma City, OK 73102		8-736-4635
	VA Outpatient Clinic - Lawton P.O. Box 49 Lawton, OK 73502		8-734-1111
Nashville, TN 37203 (320)	110 Ninth Ave., South	James A. Hitson	8-852-7136 (615) 736-7136
	<u>Outstation</u> 9047 Executive Park Dr. #100 Knoxville, TN 37923		8-854-9325 (615) 549-9325
Newark, NJ 07102 (309)	20 Washington Place	Richard C. Franco FAX #201-645-3170	8-341-2646 (201) 645-2648
	<u>Outstations</u> Trenton State College Green Hall - Room 14 Trenton, NJ 08625	Michael Marion, VRS	(609) 771-2572
	Ocean City Vets Bureau C.N. 2191 Toms River, NJ 08753	James Bates, VRS	(201) 349-6106

<u>STATION</u>	<u>STREET ADDRESS</u>	<u>NAME</u>	<u>FTS</u> <u>LOCAL</u>
New Orleans, LA 70113 (321)	701 Loyola Ave.	Kenneth A. Frick	8-682-6431 (504) 589-6431
	<u>Outstation</u> 142 Federal Bldg. 500 Fannin St. Shreveport, LA 71101	Arthur Ruggles, C.P.	8-493-5425
New York, NY 10001 (306)	252 Seventh Ave.	Edmundo Pantejo FAX #8-660-6862	8-660-6470 (212) 620-6470
	<u>Outstation</u> O'Brien Federal Bldg. Clinton Ave. and North Pearl St. Albany, NY 12207	Walter McDowell	8-562-4856 (518) 472-4856
Philadelphia, PA 19101 (310)	P.O. Box 13399	George Pannebaker FAX #8-486-5273	8-486-5237 (215) 951-5237
	<u>Outstation</u> 228 Walnut St. #674 Harrisburg, PA 17108	Joseph Luisi, C.P.	8-590-3476
	19-27 N. Main St. Wilkes Barre, PA 18701	Thomas Comiskey, C.P.	8-592-6224
Phoenix, AZ 85012 (345)	3225 N. Central	Scott K. Nielson, Jr. FAX #8-261-2775 (602) 640-2775	8-261-2725 (602) 640-2725
	<u>Outstation</u> VA Medical Center Building 13 Tucson, AZ 85723	Dale Halstead, C.P.	8-762-6168 (602) 670-6168
Pittsburgh, PA 15222 (311)	1000 Liberty Ave.	Tracy Alton FAX #8-722-4477	8-722-6620 (412) 644-6620
	<u>Outstation</u> P.O. Box 638 Indiana, PA 15701	John Carbone, VRS	(412) 463-7934
Portland, OR 97204 (348)	Federal Building 1220 SW Third Ave.	H. Gordon Campbell	8-423-2622 (503) 221-2622
Providence, RI 02903 (304)	380 Westminster Mall	Dennis Johnson FAX #8-838-4382 (401) 528-4382	8-838-4430 (401) 528-4426
Reno, NV 89520 (354)	1201 Terminal Way	Gerald C. Braun	8-470-5650 (702) 784-5580
	<u>Outstation</u> 1703 W. Charleston #1059 Las Vegas, NV 89102	Tony Ziomek, C.P. John Miller, C.P. Bob Farnsworth, VRS	8-595-7201

PHONE NUMBERNUMBERS

<u>STATION</u>	<u>STREET ADDRESS</u>	<u>NAME</u>	<u>FTS</u> <u>LOCAL</u>
Roanoke, VA 24011 (314)	210 Franklin Rd., SW	Vince Monteforte FAX #8-937-4333 (703) 982-4333	8-937-6424 (703) 982-6424
	<u>Outstation</u> McGuire VA Medical Center Room 1M 162 Richmond, VA 23249	Connie M. Crouch	8-698-1493 (804) 230-1493
	2019 Cunningham Dr. #402 Hampton, VA 23666	Leland E. Jarrett FAX #8-827-3783 (804) 441-3783	8-827-6762 (804) 441-6762
Salt Lake City, UT 84138 (341)	Federal Building 125 South State St. P.O. Box 11500	Louis A. Winkler FAX #8-588-3162	8-588-5470 (801) 524-5470
San Diego, CA 92108 (377)	2022 Camino Del Rio, North	Donald C. Tisch FAX #8-895-5777	8-895-5746 (619) 557-5746
San Francisco, CA 94105 (343)	211 Main Street <u>Outstation</u> 1825 Belle St. #103 Sacramento, CA 95825	John Florence FAX #8-484-7720 Terry Reardon, C.P.	8-484-7591 (415) 744-7591 8-460-5504
San Juan, PR 00936 (355)	GPO Box 4867 Federal Building Hato Rey	Sonia M. Moreno FAX #8-498-6200 (809) 766-6200	8-498-5286 (809) 766-5286
Seattle, WA 98174 (346)	Federal Building 915 Second Avenue #1292 <u>Outstation</u> VA Medical Center N. 4815 Assembly St. Spokane, WA 99208	Don Monson FAX #8-399-0878 (206) 442-0878 Van Milek, C.P.	8-399-7095 (206) 442-7095 (509) 327-0298
Sioux Falls, SD 57117 (438)	P.O. Box 5046	Cletus D. Weis	8-789-6081 (605) 336-3230 Ext. 6081
St. Louis, MO 63103 (331)	Federal Building 1520 Market St. <u>Outstation</u> VA Office 601 E. 12th St. Kansas City, MO 64106 VAMC 800 Hospital Drive Columbia, MO 65201	Gregory Taylor Sue Damitz, C.P. Jim Byars, C.P.	8-262-3141 (314) 539-3141 8-867-3656 8-276-6820

<u>STATION</u>	<u>STREET ADDRESS</u>	<u>NAME</u>	<u>FTS</u> <u>LOCAL</u>
St. Paul, MN 5111 (335)	Federal Building Fort Snelling	Verlan W. Ott	8-725-3165 (612) 725-3165
St. Petersburg, FL 3731 (317)	P.O. Box 1437 (Mailing Address) 144 First Ave., South	Steven E. Simon	8-826-3107 (813) 893-3107
	<u>Outstation</u> 400 West Bay Street Box 35064, Room 209 Jacksonville, FL 32202	Calvin Chisholm, C.P.	8-946-3396 (904) 791-3438
	FOB, Room 1212 51 SW First Avenue Miami, FL 33130	Thomas Golabek, C.P.	8-350-5871 (305) 536-5871
	Federal Building Room 158 80 North Hughey Avenue Orlando, FL 32801	Roger Rumney, C.P.	8-820-6132 (407) 648-6132
	U.S. Courthouse, Rm. 318 100 North Palafox Street Pensacola, FL 32501	Murray Jones, C.P.	(904) 432-0767
Bangor, ME 1330 (402)	VAM&ROC	Fred Judkins, II	8-833-5464 (207) 623-8411
	<u>Outstation</u> Federal Bldg. #233 Bangor, ME 04401	Robert Mahlman, VRS	8-833-7420
Dallas, TX 5799 (349)	1400 North Valley Mills Drive	Gary O. Pirkle	8-728-6771 (817) 757-6771
	<u>Outstation</u> 5919 Brookhollow Dr. El Paso, TX 79925	Eloy Castillo, C.P.	8-570-7680 (915) 541-7680
	Federal Building Room 1-B29 1100 Commerce St. Dallas, TX 75242	Kenneth Buckner, C.P.	8-729-0195 (214) 767-0195
	4902 34th S. St. Suite 10 Lubbock, TX 79410	John Wolf, C.P.	8-826-7998 (806) 796-7998
Washington, D.C. 0421 (372)	941 N. Capitol St., NE	G. Thomas Yungman, Ed.D. FAX #8-208-1901	8-268-2390 (202) 208-2390
White River Jct, VT 5001 (405)	VAM&ROC	Stanley R. Hunton FAX #8-834-1150	8-834-1151 (802) 296-5151 Ext. 575

<u>STATION</u>	<u>STREET ADDRESS</u>	<u>NAME</u>	<u>PHONE NUMBER</u> <u>FTS</u> <u>LOCAL</u>
ichita, KS 7218 (452)	VAM&ROC 5500 E. Kellogg	Joseph J. Monsam FAX #8-752-3707	8-752-3842 (316) 269-6842
	<u>Outstation</u> VA Medical Center 2200 Gage Blvd. Topeka, KS 66622	Lloyd Northrop, C.P.	8-752-5378
ilmington, DE 9805 (460)	1601 Kirkwood Hwy.	Robert J. Burton	8-487-5412 (302) 998-0194
inston-Salem, NC 7155 (318)	Federal Building 251 Main Street	Charles L. O'Bryant FAX #8-670-3415	8-670-3453 (919) 631-5453



OFFICE OF THE DIRECTOR

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT

WASHINGTON, D.C. 20415

JUL 27 1992

'92 JUL 14 P4:26

EXECUTIVE SECRET

MEMORANDUM FOR HEADS OF DEPARTMENTS AND INDEPENDENT AGENCIES

FROM: DOUGLAS A. BROOK
ACTING DIRECTOR *DB*

SUBJECT: Request for Reports and Plan Certifications for
Disabled Veterans Affirmative Action Program and
Federal Equal Opportunity Recruitment Program
for FY '92

Accomplishment Reports and Plan
Certifications: DVAAP and FEORP
are due on or before 12-1-92
(#0258-OPM-AN/#0305-OPM-AN)

Agencies are required to submit annual accomplishment reports and plan certifications for the Disabled Veterans Affirmative Action Program (DVAAP) and the Federal Equal Opportunity Recruitment Program (FEORP) to the Office of Personnel Management (OPM).

The following procedures have been implemented by OPM in an effort to facilitate the process:

- This call for reports is being sent at this time of the year to ensure timely agency submissions to OPM. Agency submissions are due by December 1, 1992. Agency success in meeting reporting timeframe requirements as well as program progress and accomplishments will be included in the annual reports to Congress.
- As stated, the submission due dates for DVAAP and FEORP reports/certifications have been combined -- December 1. However, agencies are reminded that the next annual FEORP report from OPM to Congress is due January 31, 1993. Agencies are expected to have reports and certifications for FEORP to OPM on time for this annual report to so reflect.
- Your separate accomplishment reports for DVAAP and FEORP should indicate progress on the goals and objectives set forth in fiscal year 1992 plans. Agency data sent to the Central Personnel Data File (CPDF) are not required to be included in the accomplishment reports. OPM will access data directly from the CPDF.

- In June, we sent to you CPDF information on your agency's veterans' employment for the entire fiscal year 1991. The data will include an executive summary of your agency's veterans' data. We use this data in analyzing agencies' DVAAP progress and reporting to Congress.
- Agencies' DVAAP and FEORP submissions will be reviewed, analyzed, and responded to by an OPM agency account manager who is available for advice and technical assistance on both programs. The OPM account managers are in contact with your agency's program manager.

The above OPM initiatives are designed to assist agencies in planning and coordinating submission of their reports and take into consideration other comparable reporting requirements.

The DVAAP and FEORP reports and plan certifications are to be submitted to:

U.S. Office of Personnel Management
Office of Affirmative Recruiting and Employment
Recruiting Programs Division, Room 6355
1900 E Street, NW.
Washington, DC 20415

We appreciate your cooperation. If you or your staff have any questions, please do not hesitate to contact your account manager or Priscilla Levinson on (202) 606-0870.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: BROOK, DOUGLAS A., ACTING DIRECTOR, OPM
To: AG. ODD: NONE
Date Received: 08-10-92 Date Due: NONE Control #: X92081112032

Subject & Date
08-05-92 LETTER ENCLOSING A COPY OF OPM's REPORT
FOR JUNE 1992 HIGHLIGHTING THE MAJOR FINDINGS FOR DOJ
OF THE RECENTLY ADMINISTERED SURVEY OF FEDERAL EMPLOYEES
(SOFE), WHICH COMPARES THE PERCEPTIONS OF DOJ EMPLOYEES
REGARDING WORKLIFE TO THOSE OF FEDERAL WHITE-COLLAR WORKERS
AS A WHOLE. ALSO ENCLOSES A COPY OF THE PERSONNEL RESEARCH
HIGHLIGHTS SPECIAL REPORT ON SOFE FOR MAY 1992. THEY
WELCOME THE AG's FEEDBACK ON HOW FUTURE SURVEYS CAN BE **

Referred To:	Date:	Referred To:	Date:	
(1) JMD;FLICKINGER	08-11-92	(5)		W/IN:
(2)		(6)		PRTY:
(3)		(7)		1
(4)		(8)		OPR:
INTERIM BY:		DATE:		EHZ
Sig. For: JMD		Date Released:		

Remarks

** IMPROVED TO BETTER MEET DOJ's NEEDS.

INFO CC LETTER ONLY: DAG.

(1) FOR APPROPRIATE HANDLING. ORIG. ENCLOSURES TO JMD.

Other Remarks:

OLA CONTACT:

FILE: OFFICE OF PERSONNEL MANAGEMENT
J920811 3208

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

5
August 92



UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

OFFICE OF THE DIRECTOR

August 5, 1992

'92 10 10 23 50

EXECUTIVE SECRETARIAT

Honorable William P. Barr
Attorney General
10th Street and Constitution Avenue, NW.
Washington, DC 20530

Dear Mr. Attorney General:

Enclosed is a report highlighting the major findings for the Department of Justice of the recently administered Survey of Federal Employees (SOFE). SOFE is the largest survey of Federal employees in nearly 10 years, completed by approximately 32,000 Federal white-collar workers. SOFE findings present a snapshot of Federal employees' attitudes regarding their jobs, their supervisors, their organizations, and a variety of human resources management programs. SOFE presents an opportunity for us all to see how well we are doing in realizing the vision and goals of the Strategic Plan for Federal Human Resources Management. Part of that vision is that Federal employees regard the Government as a great place to work.

This *SOFE Agency Report* is not intended to evaluate the state of human resources management in your agency. Rather, its purpose is to compare the perceptions of your employees regarding many aspects of worklife to those of Federal white-collar workers as a whole. Hopefully, this *Report* will serve to pique your interest in some more specific issues that can be explored on an in-depth basis in your agency.

We hope this data will be useful in your efforts to develop and implement your own strategic plan for human resources management. Toward that end, we will be sharing a copy of the *Report* with your Personnel Director. We welcome your feedback on how future surveys can be improved to better meet your needs.

Sincerely,

Douglas A. Brook
Acting Director

Enclosures

**Personnel
Research
Highlights**

Survey of Federal Employees

Justice

A publication of the
Personnel Systems and Oversight Group
Office of Systems Innovation & Simplification



United States
Office of
Personnel
Management

Special Report – Agency Supplement

June 1992

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Personnel

Research

Highlights

Survey of Federal Employees

A publication of the

Personnel Systems and Oversight Group

Office of Systems Innovation & Simplification



United States
Office of
Personnel
Management

Special Report

May 1992

AMERICAN
OVERSIGHT

PERSONNEL RESEARCH HIGHLIGHTS

SPECIAL REPORT

on

THE SURVEY OF FEDERAL EMPLOYEES (SOFE)

*The Office of Systems Innovation and Simplification
Personnel Systems and Oversight Group
U.S. Office of Personnel Management*

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DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: BROOK, DOUGLAS A., ACTING DIRECTOR, OPM

To: AG.

ODD: 09-14-92

Date Received: 08-27-92 Date Due: 09-30-92 Control #: X920828128869

Subject & Date

08-21-92 LETTER ADVISING THAT P.L. 101-508, SECTION 7002(c)
(OMNIBUS BUDGET RECONCILIATION ACT OF 1990), EFFECTIVE
JANUARY 1, 1991, AMENDED SECTION 8909 OF TITLE 5 OF THE U.S.
CODE TO PREEMPT ANY TAX, FEE OR OTHER MONETARY PAYMENT FROM
BEING IMPOSED, DIRECTLY OR INDIRECTLY, BY ANY STATE ON A
HEALTH BENEFITS CARRIER OR UNDERWRITER W/RESPECT TO PAYMENT
MADE FROM THE FEDERAL EMPLOYEES HEALTH BENEFITS FUND. OPM
ADVISED SEVERAL STATES THAT VARIOUS TYPES OF ASSESSMENTS **

Referred To:	Date:	Referred To:	Date:	
(1) CIV;GERSON	08-28-92	(5)		W/IN:
(2)		(6)		
(3)		(7)		PRTY:
(4)		(8)		1
INTERIM BY:		DATE:		OPR:
Sig. For: CIV		Date Released: 09-28-92		EHZ

Remarks

(1) RETURN CONTROL SHEET W/COPY OF SIGNED AND DATED RESPONSE
TO EXEC. SEC., ROOM 400-AA.
09-28-92 CIV REPLIED BY LETTER DATED 09-25-92. (TJ)

Other Remarks:

OLA CONTACT:

FILE: OFFICE OF PERSONNEL MANAGEMENT

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

010 21 AUGUST 92

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: BROOK, DOUGLAS A., ACTING DIRECTOR, OPM

To: AG.

ODD: 09-14-92

Date Received: 08-27-92 Date Due: 09-30-92 Control #: X92082812886

Subject & Date

08-21-92 LETTER ADVISING THAT P.L. 101-508, SECTION 7002(c)
(OMNIBUS BUDGET RECONCILIATION ACT OF 1990), EFFECTIVE
JANUARY 1, 1991, AMENDED SECTION 8909 OF TITLE 5 OF THE U.S.
CODE TO PREEMPT ANY TAX, FEE OR OTHER MONETARY PAYMENT FROM
BEING IMPOSED, DIRECTLY OR INDIRECTLY, BY ANY STATE ON A
HEALTH BENEFITS CARRIER OR UNDERWRITER W/RESPECT TO PAYMENT
MADE FROM THE FEDERAL EMPLOYEES HEALTH BENEFITS FUND. OPM
ADVISED SEVERAL STATES THAT VARIOUS TYPES OF ASSESSMENTS **

	Referred To:	Date:	Referred To:	Date:	
(1)	CIV;GERSON	08-28-92	(5)		W/IN:
(2)			(6)		
(3)			(7)		PRTY:
(4)			(8)	CIV;GERSON 08-28-92	1
	INTERIM BY:		DATE:		OPR:
	Sig. For: CIV		Date Released: SEE "9"		EHZ

Remarks

** WERE IN CONTRAVENTION OF THIS CONGRESSIONAL MANDATE AND
COULD NOT BE IMPOSED PROPERLY. ADVISES THAT THE STATE OF
CONNECTICUT (CT) ESTABLISHED AN UNCOMPENSATED CARE POOL, AND
FED. EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP) ENROLLEES
INCURRED THIS ASSESSMENT ON HOSPITAL BILLS. OPM REQUESTED
THAT CT INITIATE REIMBURSEMENT PROCEDURES FOR FEHBP CARRIERS
OR ENROLLEES. ADVISES CT HAS NOT COMPLIED W/THIS REQUEST,

Other Remarks:

AND HE HAS ASKED OPM's ACTING GEN. COUNSEL TO CONSULT W/CIV
OFFICIALS. REQUESTS DOJ's HELP W/COMPLIANCE IN THIS MATTER.
INFO CC: OAG, DAG, ASG, JMD.

(1) RETURN CONTROL SHEET W/COPY OF SIGNED AND DATED RESPONSE
TO EXEC. SEC., ROOM 4400-AA.

OLA CONTACT:

8/28/92 JRH FYI

FILE: OFFICE OF PERSONNEL MANAGEMENT
J920828 3461

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY



U.S. Department of Justice

Civil Division

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 25 1992

Mr. Douglas A. Brook
Acting Director
U.S. Office of Personnel Management
Washington, DC 20415

Dear Mr. Brook:

I am in receipt of your letter of August 21, regarding the State of Connecticut's uncompensated medical care assessment. Attorneys from the Federal Programs Branch of the Civil Division of the Department of Justice have met with James Green and other individuals from your Office of General Counsel to discuss this situation. These attorneys, Art Goldberg and Carole Jeandheur, are working with Mr. Green and looking into bringing an action against the State of Connecticut to enforce the federal preemption of Connecticut's medical care assessment for individuals covered by the Federal Employees Health Benefits Act shortly.

Sincerely,

Stuart M. Gerson
Assistant Attorney General



UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

OFFICE OF THE DIRECTOR

AUG 21 1992

'92 18 27 14 19

Honorable William P. Barr
Attorney General
U.S. Department of Justice
Washington, D.C. 20530

11560011

Dear Mr. Attorney General:

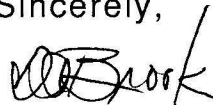
Public Law 101-508, Section 7002(c) (Omnibus Budget Reconciliation Act of 1990), effective January 1, 1991, amended Section 8909 of Title 5 of the United States Code to preempt any tax, fee or other monetary payment from being imposed, directly or indirectly, by any State on a health benefits carrier or underwriter with respect to any payment made from the Federal Employees Health Benefits Fund (Fund). The Office of Personnel Management (OPM) has advised several states that various types of assessments were in contravention of this Congressional mandate and properly could not be imposed.

The State of Connecticut, pursuant to Connecticut Public Act 91-2, established an uncompensated care pool to be funded by an assessment on all payments to hospitals by payers other than Medicare, Medicaid and CHAMPUS. Federal employees in Connecticut who are enrolled in the Federal Employees Health Benefits Program (FEHBP) began to incur this assessment on hospital bills. As the FEHBP plans pay hospital costs out of premiums from the Fund, OPM determined that the Connecticut assessment was preempted by the Federal law. In an exchange of letters between myself and members of my staff and Connecticut officials, OPM requested that Connecticut notify its hospitals of the Federal preemption and initiate reimbursement procedures for any funds collected from either FEHBP carriers or enrollees.

It appears that Connecticut has not yet complied with my request. Connecticut's failure to do so leaves Federal enrollees in Connecticut subject to hospital collection and credit procedures unfairly. Because of my concern for those Federal employees and the integrity of the FEHBP, I have asked my Acting General Counsel to consult with the appropriate

officials of the Justice Department's Civil Division to explore ways in which to enforce the Federal preemption that I believe is appropriate in these circumstances. I am aware that other States have passed statutes similar to that of Connecticut. The FEHBP preemption is premised upon Congress' intent to ensure that Federal control over the disbursement of Federal monies for the FEHBP is not defeated by various and inconsistent State laws and State judicial decisions which would require greater expenditures of Federal funds in a time of fiscal constraint. For that reason, I am asking you and the Department of Justice to help us ensure compliance with Federal law and to protect our enrollees.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Brook", with a stylized flourish at the end.

Douglas A. Brook
Acting Director

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: BROOK, DOUGLAS A., ACTING DIRECTOR, OPM

To: AG.

ODD: NONE

Date Received: 08-31-92 Date Due: NONE

Control #: X92083112937

Subject & Date

08-28-92 LETTER, IN ACCORDANCE WITH SECTION 4 OF
EXECUTIVE ORDER 12353 AND OPM REGULATIONS AT 5 CFR
950.102(a), GRANTING DOJ PERMISSION FOR AN EMERGENCY OR
DISASTER APPEAL TO SOLICIT FUNDS FROM DOJ EMPLOYEES, AT
THEIR FEDERAL WORKPLACE, FOR THE PURPOSE OF PROVIDING
EMERGENCY RELIEF TO DOJ EMPLOYEES IN THE DISASTER AREA OF
MIAMI, FLORIDA.

Referred To: Date:
(1) JMD;FLICKINGER 08-31-92
(2)
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Referred To: Date:
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(8)

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1

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EHZ

INTERIM BY:

Sig. For: JMD

DATE:

Date Released:

Remarks

INFO CC: OAG, DAG, ASG.

(1) FOR APPROPRIATE HANDLING. ADVISE EXEC. SEC. OF ACTION
TAKEN.

Other Remarks:

OLA CONTACT:

8/31/92 TTR FYI

FILE: OFFICE OF PERSONNEL MANAGEMENT

J920831 3487

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY



OFFICE OF THE DIRECTOR

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

'92 AS 31 11:16

RECEIVED JPB 11/16

August 28, 1992

Honorable William P. Barr
Attorney General
Department of Justice
Washington, DC 20530

Dear Mr. Attorney General:

In accordance with Section 4 of Executive Order 12353, and the regulations of the Office of Personnel Management at 5 CFR 950.102(a), I am hereby granting permission to the Department of Justice for an emergency or disaster appeal, to be conducted under your oversight.

In accordance with this authorization, the Department of Justice may solicit funds from its own employees, at their Federal workplaces, for the purpose of providing emergency relief to employees of the Department of Justice in the disaster area of Miami, Florida.

Sincerely,

A handwritten signature in black ink, appearing to read "DA Brook", is written over the typed name.

Douglas A. Brook
Acting Director

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: BROOK, DOUGLAS A., ACTING DIRECTOR, OPM
To: HEADS OF DEPTS. & INDEPENDENT AGENCIES (AG.) ODD: NONE
Date Received: 09-23-92 Date Due: NONE Control #: X92092414154
Subject & Date

09-11-92 MEMO ENCLOSING A COPY OF "A CALL TO ACTION: A
REPORT ON INCREASING THE EMPLOYMENT OF PEOPLE WITH
DISABILITIES IN THE FEDERAL SECTOR," WHICH IS THE RESULT
OF THE ISSUES AND RECOMMENDATIONS BROUGHT FORTH DURING
THE "ACCESS 2000" SYMPOSIUM HELD IN OCTOBER 1991 BY OPM,
PRESIDENT'S COMMITTEE ON THE EMPLOYMENT OF PEOPLE WITH
DISABILITIES, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, AND
DEPARTMENT OF EDUCATION. ADVISES THAT THE ACCESS 2000 **

Referred To:	Date:	Referred To:	Date:	
(1) JMD;FLICKINGER	09-24-92	(5)		W/IN:
(2)		(6)		
(3)		(7)		PRTY:
(4)		(8)		1
INTERIM BY:		DATE:		OPR:
Sig. For: JMD		Date Released:		MAU

Remarks

** CO-SPONSORS PLAN TO WORK WITH AGENCIES TO IMPLEMENT THE
REPORT RECOMMENDATIONS.
(SEE EXEC. SEC. 91092416751 - CONTROL SHEET ATTACHED.)

INFO CC WITHOUT COMPLETE ENCLOSURE: OAG, DAG, ASG, CRT.
(1) FOR APPROPRIATE HANDLING, WITH ORIGINAL ENCLOSURE.

Other Remarks:

OLA CONTACT:
9/24/92 KMM FYI
FILE: OFFICE OF PERSONNEL MANAGEMENT
J920924 3833

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

11 September 92



OFFICE OF THE DIRECTOR

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

SEP 11 1992

'92 SEP 23 P3:54

EXECUTIVE SECRETARIA

MEMORANDUM FOR HEADS OF DEPARTMENTS AND INDEPENDENT AGENCIES

FROM: DOUGLAS A. BROOK
ACTING DIRECTOR

SUBJECT: A CALL TO ACTION

The Office of Personnel Management, the President's Committee on the Employment of People with Disabilities, the Equal Employment Opportunity Commission, and the Department of Education co-sponsored the "Access 2000" symposium in October of last year. The purpose of the symposium was to conduct a working meeting with key management officials to respond to the challenge issued by the President that Federal agencies hire more people with disabilities.

The attached document is the result of the issues and recommendations brought forth at the meeting and subsequent followup feedback. **A CALL TO ACTION:** *A Report on Increasing the Employment of People with Disabilities in the Federal Sector*, represents a major effort to identify what needs to be accomplished by Federal agencies which will result in the employment of more people with disabilities. This report, which focuses on employment issues, has been organized to depict four key areas, i.e., hiring, retaining, developing, and advancing people with disabilities. A core theme, which is highlighted in the "Executive Summary," throughout the report is knowledge of legal requirements and reasonable accommodations.

The Access 2000 co-sponsors plan to work with agencies to implement the report recommendations. Your staff may direct questions concerning **A CALL TO ACTION** to Ms. Karen Leydon or Calene Williams on (202) 606-0870 or TDD (202) 606-0023.

Attachment

cc:
Directors of Personnel
Directors of Civil Rights and
Equal Employment Opportunity
Access 2000 Participants

A Call To Action

A Report on Increasing the Employment of People With Disabilities in the Federal Sector

Based on the First National Symposium -- October 29, 1991

“Access 2000 and Career America Joining the Mainstream”



Issued By:



United States
Office of
Personnel
Management

United States
Equal
Employment
Opportunity
Commission

President's
Committee on
Employment of
People with
Disabilities

United States
Department of
Education

July 1992

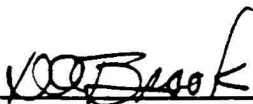
A CALL TO ACTION

ACCESS 2000

In the same spirit of cooperation that was demonstrated in passing the Americans with Disabilities Act on July 26, 1990, the U.S. Office of Personnel Management came together with the U.S. Equal Employment Opportunity Commission, the President's Committee on the Employment of People with Disabilities, and the U.S. Department of Education to sponsor the Access 2000 Symposium on October 29, 1991. It was a forum that more closely examined what must be done now and in the future to increase the number of people with disabilities employed in the Federal Government.

As the doors of opportunity open for underrepresented Americans, it is our desire to meet the challenge issued by the President that Federal agencies hire more people with disabilities. We agree it is the responsibility of the Federal sector to be a leader in what it is asking of the private sector. Passive, reactive recruiting programs must be replaced with aggressive strategies in order to meet our goal.

The Access 2000 Symposium was a beginning. We are following this with A CALL TO ACTION, which is before you. The resulting vision for the future links ideas and themes that were developed at the symposium. The goal is to integrate and incorporate the Federal Government's employment and training programs for people with disabilities into the human resource management plans of each agency.



Honorable Douglas A. Brook
Acting Director
Office of Personnel Management



Honorable Justin Dart
Chairman
President's Committee on
the Employment of People
with Disabilities



Honorable Evan Kemp, Jr.
Chairman
Equal Employment
Opportunity Commission



Honorable Lamar Alexander
Secretary
Department of Education

ACCESS 2000 SYMPOSIUM TABLE OF CONTENTS

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A CALL TO ACTION:

A Report on Increasing the Employment of People with Disabilities in the Federal Sector

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III. Partnerships	11

APPENDIX:

Co-Host, Panel of Experts and Closing Remarks

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: HEUERMAN, ALLAN, INTERAGENCY ADVISORY GROUP, OPM
To: DIRECTORS OF PERSONNEL (AG.) ODD: NONE
Date Received: 09-21-92 Date Due: NONE Control #: X92092113946
Subject & Date
09-14-92 MEMO TRANSMITTING THE "ANNUAL REPORT TO THE
PRESIDENT AND THE CONGRESS ON THE PERFORMANCE MANAGEMENT AND
RECOGNITION SYSTEM" (PMRS), WHICH REFLECTS DATA FROM THE
FY 1990 PERFORMANCE APPRAISAL CYCLE, THE LATEST DATA
AVAILABLE.

	Referred To:	Date:		Referred To:	Date:	
(1)	JMD;FLICKINGER	09-21-92	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1
	INTERIM BY:			DATE:		OPR:
	Sig. For:	NONE		Date Released:		EHZ

Remarks
INFO CC LETTER ONLY: OAG, DAG, ASG.
(1) FOR INFORMATION.

Other Remarks:

OLA CONTACT:
9/22/92 TTR FYI
FILE: OFFICE OF PERSONNEL MANAGEMENT
J920921 3750

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

14
September 92

INTERAGENCY ADVISORY GROUP

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415

92 SEP 21 11:29

Secretariat
1900 E St., NW

September 14, 1992

MEMORANDUM FOR DIRECTORS OF PERSONNEL

FROM:

Allan D. Heuerman
ALLAN D. HEUERMAN
ASSISTANT DIRECTOR
FOR OFFICE OF LABOR RELATIONS
AND WORKFORCE PERFORMANCE

SUBJECT:

Annual Report to the President and Congress on the
Performance Management and Recognition System
(PMRS)

The purpose of this memorandum is to transmit the Annual Performance Management and Recognition System Report that was submitted to the President and Congress.

The report reflects data from the FY 1990 performance appraisal cycle, which was the latest data available. Average performance ratings continued to shift upward, reaching 4.11 in 1990, with over 80 percent of PMRS employees rated above Fully Successful.

The report also includes information on the administration and oversight of the PMRS system, as well as information on merit increases, performance awards, and total direct compensation.

If you have any questions concerning the report, please call Rachel Steed at (202) 606-2720.

**ANNUAL REPORT TO THE PRESIDENT AND THE CONGRESS
ON THE
PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM**

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• MERIT INCREASES	21
• PERFORMANCE AWARDS	25
• TOTAL DIRECT COMPENSATION	31



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**ANNUAL REPORT
TO THE PRESIDENT
AND THE CONGRESS
ON THE
PERFORMANCE MANAGEMENT
AND
RECOGNITION SYSTEM**



United States
Office of
Personnel
Management

Personnel
Management
System
Program

Personnel
Management
System

Personnel
Management
System

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: KLEIN, LEONARD R., ASSOCIATE DIRECTOR FOR CAREER ENTRY, OPM
To: DIRECTORS OF PERSONNEL, CIVIL RIGHTS & EEO (AG.) ODD: NONE
Date Received: 10-30-92 Date Due: NONE Control #: X92110215862
Subject & Date
10-30-92 MEMO ATTACHING A COPY OF OPM'S FISCAL YEAR 1991
ANNUAL REPORT TO CONGRESS ON VETERANS' EMPLOYMENT IN THE
FEDERAL GOVERNMENT. REQUESTS THAT THE ATTACHED SURVEY BE
COMPLETED AND RETURNED TO THEM IN ORDER THAT THEY MAY
IMPROVE THEIR SERVICES AND TO MAKE THIS REPORT MORE
USEFUL.

	Referred To:	Date:		Referred To:	Date:	
(1)	JMD;FLICKINGER	11-02-92	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1
	INTERIM BY:			DATE:		OPR:
	Sig. For:	JMD		Date Released:		MAU

Remarks

INFO CC WITHOUT COMPLETE ENCLOSURES: OAG, DAG, ASG.
(1) FOR APPROPRIATE HANDLING, WITH ORIGINAL ENCLOSURES.

Other Remarks:

OLA CONTACT:

FILE: OFFICE OF PERSONNEL MANAGEMENT
J921102 4402

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

30 October 92



United States
**Office of
Personnel Management**

Washington, D.C. 20415

In Reply Refer To:

Your Reference:

OCT 30 1992

MEMORANDUM FOR DIRECTORS OF PERSONNEL, CIVIL RIGHTS AND EQUAL
EMPLOYMENT OPPORTUNITY

FROM:

for Leonard R. Klein
LEONARD R. KLEIN
ASSOCIATE DIRECTOR
FOR CAREER ENTRY

SUBJECT: Fiscal Year 1991 Annual Report to Congress on
Veterans' Employment in the Federal Government

Attached is your copy of the Office of Personnel Management's
(OPM) Fiscal Year 1991 Annual Report to Congress on Veterans'
Employment in the Federal Government.

This report includes many examples of significant agency
accomplishments in support of recruiting, hiring, and
advancement of veterans and disabled veterans. It also
includes a list of agencies required to submit Disabled
Veterans' Affirmative Action Program (DVAAP) accomplishment
reports and plan certifications to OPM.

We are striving to improve our services and wish to help make
this report more useful to you. Therefore, we are requesting
your assistance by completing the attached survey and mailing
it back to us at:

Office of Personnel Management
Career Entry
Office of Affirmative Recruiting
and Employment
1900 E Street, NW., Room 6355
Washington, DC 20415

If there are any questions, please feel free to have your
staff contact Ms. Margaret Randall on (202) 606-0870 or
TDD (202) 606-0023.

Attachments

CC:

Agency DVAAP Coordinators

**U.S. OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC**

HOW ARE WE DOING?

Our goal is continuous improvement of our products. While the Disabled Veterans Affirmative Action Program (DVAAP) report is addressed to Congress, we have worked to make it useful to you as well. Please let us know what you think about the report by completing this survey and mailing it back to us.

WHAT DO YOU THINK ?					
	VERY	QUITE	SOMEWHAT	NOT VERY	NOT AT ALL
1. How USEFUL is the information to you in: <input type="checkbox"/> Evaluating your DVAAP progress?(✓) <input type="checkbox"/> Improving your DVAAP?(✓)	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>
2. How USEFUL is each of the sections?(✓) <input type="checkbox"/> Executive Summary <input type="checkbox"/> Background <input type="checkbox"/> OPM Initiatives & Activities <input type="checkbox"/> Employment of Veterans <input type="checkbox"/> DVAAP <input type="checkbox"/> New Directions <input type="checkbox"/> Appendices	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>

3. HOW WOULD YOU FORMAT THE REPORT DIFFERENTLY?

4. WHAT ADDITIONAL KINDS OF INFORMATION WOULD YOU LIKE US TO INCLUDE?

5. HOW CAN THIS REPORT BE MADE MORE USEFUL TO YOU?

RETURN TO:
OFFICE OF PERSONNEL MANAGEMENT
CAREER ENTRY GROUP
1900 E STREET, NW, ROOM 8355
WASHINGTON, DC 20415



United States
Office of
Personnel
Management

VETERANS' EMPLOYMENT IN THE FEDERAL GOVERNMENT

Annual Report to Congress

Fiscal Year 1991

October 1, 1990 – September 30, 1991



UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

OFFICE OF THE DIRECTOR

OCT 8 1992

Honorable Dan Quayle
President of the Senate
Washington, DC 20510

Dear Mr. President:

I am pleased to submit the Office of Personnel Management's (OPM) Fiscal Year 1991 Annual Report to Congress on Veterans' Employment in the Federal Government. I am submitting the same report to the Honorable Thomas S. Foley, Speaker of the House of Representatives. This report is in accordance with title 38, United States Code, section 4214 (formerly section 2014).

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Brook", is written over the typed name.

Douglas A. Brook
Acting Director

Enclosure

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FIRST CLASS

型A

THE UNIVERSITY OF CHICAGO PRESS

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: BROOK, DOUGLAS A., ACTING DIRECTOR, OPM
To: HEADS OF DEPARTMENTS AND AGENCIES (AG.) ODD: NONE
Date Received: 11-06-92 Date Due: NONE Control #: X92110916244
Subject & Date

11-02-92 MEMO REGARDING AGENCY RESPONSIBILITIES TOWARD BLIND
AND VISUALLY IMPAIRED EMPLOYEES DURING THE FEDERAL EMPLOYEES
HEALTH BENEFITS (FEHB) OPEN SEASON. ADVISES THAT OPM WILL
MAKE AVAILABLE THE LARGE PRINT PLAN COMPARISON CHART
(RI 70-10) AND TONE INDEXED CASSETTE TAPES FOR THE OPEN
FEE-FOR-SERVICE PLAN BROCHURES. WOULD APPRECIATE EACH
AGENCY HEAD'S COOPERATION IN ENSURING THAT EVERY FEDERAL
EMPLOYEE HAS ACCESS TO THE INFORMATION AND ASSISTANCE HE **

Referred To:	Date:	Referred To:	Date:	
(1) JMD;FLICKINGER	11-09-92	(5)		W/IN:
(2)		(6)		
(3)		(7)		PRTY:
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INTERIM BY:		DATE:		OPR:
Sig. For: JMD		Date Released:		MAU

Remarks

** OR SHE NEEDS TO MAKE AN INFORMED HEALTH BENEFITS
DECISION.

INFO CC: OAG, DAG, ASG.

(1) FOR APPROPRIATE HANDLING.

Other Remarks:

OLA CONTACT:

11/12/92 TTR FYI

FILE: OFFICE OF PERSONNEL MANAGEMENT
J921109 4512

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2
NOVEMBER 92



UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

OFFICE OF THE DIRECTOR

NOV 2 - 1992 4:32

EXECUTIVE SECRET

MEMORANDUM FOR HEADS OF DEPARTMENTS AND AGENCIES

FROM: DOUGLAS A. BROOK
ACTING DIRECTOR

SUBJECT: Agency Responsibilities Toward Blind and Visually
Impaired Employees During the FEHB Open Season

Three years ago, the Office of Personnel Management began a program to provide health benefits and open season information to blind and visually impaired employees in formats designed to meet their special needs. We are continuing the program and again this year will make available the large print plan comparison chart (RI 70-10). We also will make available tone indexed cassette tapes for the open fee-for-service plans brochures. As in the past, we will distribute the information for blind and visually impaired employees as quickly as possible.

The special FEHB materials should help blind and visually impaired employees make informed decisions regarding their health benefits coverage. However, each department or agency must still provide one-on-one-counseling, preferably by an agency benefits specialist, to fulfill its obligation to assist its employees during open season. The counselor should answer questions and provide relevant, factual information that will help the employee make his or her independent choice. In addition, it may be appropriate for agencies to provide readers to assist blind and visually impaired employees in reviewing FEHB literature that may not be in a format readily accessible to them.

If the agency finds that a blind or visually handicapped employee did not have access to the special materials or other assistance he or she needed to make an informed choice during the open season, it should allow a belated open season election.

We appreciate your cooperation in ensuring that every Federal employee has access to the information and assistance he or she needs to make an informed health benefits decision. Insurance Officer Bulletins have been distributed to your staff providing specific information on obtaining the materials referred to in this memorandum.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: EDDINGTON, DEBRA J., OPM

To: AG.

ODD: 03-19-93

Date Received: 12-15-92 Date Due: 03-19-93 Control #: X92121617788

Subject & Date

12-08-92 LETTER ANNOUNCING THE FY93 WOMEN'S EXECUTIVE LEADERSHIP PROGRAM, A PROGRAM THAT PROVIDES LEADERSHIP TRAINING AND DEVELOPMENTAL OPPORTUNITIES FOR HIGH-POTENTIAL FEDERAL EMPLOYEES PREPARING THEM FOR FUTURE POSITIONS AS SUPERVISORS AND MANAGERS. ENCLOSURES A BROCHURE WHICH PROVIDES DETAILS OF THE PROGRAM AND ALSO THE NOMINATION PROCEDURE AND NOMINATION PACKAGE REQUIREMENTS. NOMINATION PACKAGES MUST BE RECEIVED BY OPM NO LATER THAN FRIDAY, **

Referred To: Date:

Referred To: Date:

(1) JMD;FLICKINGER 12-16-92

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OPR:

INTERIM BY:

DATE:

MAU

Sig. For: JMD

Date Released: 03-19-93

Remarks

** MARCH 19, 1993.

INFO CC: OAG, DAG, ASG.

(1) FOR APPROPRIATE HANDLING, WITH ORIGINAL ENCLOSURE.

ADVISE EXEC. SEC. OF ACTION TAKEN.

03-19-93 JMD REPLIED BY LETTER DATED 03-17-93. (TJ)

Other Remarks:

OLA CONTACT:

12/17/92 TTR FYI

FILE: OFFICE OF PERSONNEL MANAGEMENT

J921216 4940

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8 DECEMBER 92

MAR 17 1993

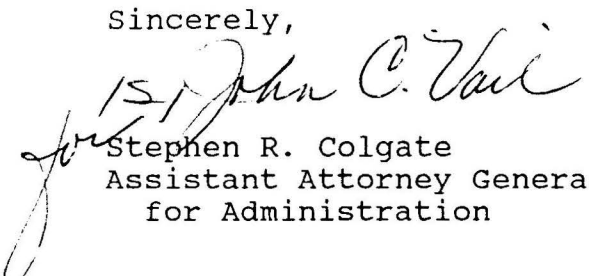
Ms. Debra J. Eddington
Manager
Women's Executive Leadership Program
U.S. Office of Personnel Management
P.O. Box 164
Washington, DC 20044

Dear Ms. Eddington:

The Department of Justice has five nominations for the FY 1993 Women's Executive Leadership Program. The nominees are: Alonda A. Guilbeau, Senior Criminal Investigator, U.S. Marshals Service (USMS); Dora M. Alvarado, Senior Criminal Investigator, USMS; Karen J. Davis, Criminal Investigator, USMS; Darcy L. Olmos, Supervisory Border Patrol Agent, Immigration and Naturalization Service (INS); and Rene J. Harris, Supervisory Border Patrol Agent, INS. Enclosed are the required nomination forms.

Thank you for the opportunity to participate. We in the Department wish you every success with this and future programs and look forward to continued participation in them.

Sincerely,


Stephen R. Colgate
Assistant Attorney General
for Administration

Enclosures

Copies Furnished: J. Vail R. Kubic D. Cisneros ✓ Ex. Sec.
SRC:JCV:RPK:DLCisneros:ams:307-0528:3/16/93:Disk 6 - WELP93



United States
**Office of
Personnel Management**

Washington, D.C. 20415-0001

December 8, 1992

92 DEC 15 04:05

ANNOUNCING THE FY93 WOMEN'S EXECUTIVE LEADERSHIP PROGRAM

Dear Prospective Candidate/Interested Party:

It is my pleasure to announce the FY93 Women's Executive Leadership Program. Enclosed please find the brochure(s) you requested.

The Women's Executive Leadership Program is a developmental program that provides leadership training and developmental opportunities for high-potential Federal employees preparing them for future positions as supervisors and managers. The Women's Executive Leadership Program is designed for full-time permanent Federal employees, at the GS-11 and GS-12 level or salary-comparable (such as Wage Grade or Foreign Service) non-supervisory women and men or new supervisors with less than one year's supervisory experience during their Federal government careers. The Women's Executive Leadership Program is tailored to the participants' own developmental needs focusing on those competencies and effectiveness characteristics needed to be a successful supervisor and manager. As outlined in the Announcement Brochure, the Women's Executive Leadership Program is to be completed in twelve months and provides formal and informal training and developmental experiences that require participants to be away from their positions for approximately five months. Individuals should be nominated based on their supervisory and managerial potential and motivation to participate fully in and complete all of the assignments of the year-long Women's Executive Leadership Program.

The nomination procedure and nomination package requirements are outlined in the Announcement Brochure. Nomination packages must be received by the U. S. Office of Personnel Management no later than Friday, March 19, 1993. Nomination packages will not be accepted after the March 19th deadline date. Tuition is \$3,350.00 and payment should be made using the SF-182 or other approved training form.

Thank you for your interest in the FY93 Women's Executive Leadership Program. If you require further information, please feel free to contact me on 202/632-5109. I look forward to hearing from you and welcome your participation.

Sincerely,

Debra J. Eddington, Manager
Women's Executive Leadership Program
Long-Term Development Programs Division
Office of Executive and Management Development
Human Resources Development Group

A N N O U N C I N G

WOMEN'S EXECUTIVE LEADERSHIP PROGRAM

FOR FISCAL YEAR 1993



United States
Office of
Personnel
Management

Human
Resources
Development
Group

Office of
Executive and
Management
Development

WEL-01
November 1992

AMERICAN
OVERSIGHT

NARA-18-1003A-003349

FY93 Women's Executive Leadership Program

The Women's Executive Leadership (WEL) Program is a developmental program that provides leadership training and development opportunities for high-potential Federal employees preparing them for future positions as supervisors and managers.

Designed for GS-11 and GS-12 (or salary compatible) non-supervisory women and men or new supervisors with less than one year's supervisory experience during their Federal Government careers, the Women's Executive Leadership Program is tailored to the participant's own developmental needs focusing on those competencies and effectiveness characteristics needed to be a successful supervisor or manager.

Under the direction of the U. S. Office of Personnel Management's Office of Executive and Management Development, the WEL Program is to be completed in twelve months. The WEL Program is open to regional as well as central office employees, but some of the required training will take place in the Washington, DC, metropolitan area and surrounding residential training sites. The Women's Executive Leadership Program may also conduct some of the training sessions in other locations across the United States. This information will be provided to the participants during the Orientation Session.

Program Components

The Women's Executive Leadership Program components outlined below provide formal and informal training and development experiences that require participants to be away from their positions for approximately five months during the WEL Program year. **Completion of these components is mandatory.** Additional work time is needed for negotiating some of these activities and for meeting certain other requirements that can only be accomplished back on the job. Each potential nominee and first-line supervisor should carefully consider these requirements before proceeding with a Nomination Package.

Orientation Session

A one-week Orientation Session will be held at a residential training site to establish a working relationship among the participants, Agency Program Coordinators, and the WEL Program staff. Program requirements, policies, expectations, and opportunities will be outlined during this Orientation Session.

Individual Needs Assessment

Prior to the Orientation Session each participant will complete a management assessment instrument (Peer Relations Survey) to assess her/his level of managerial skills. Participants will take the Myers-Briggs Type Inventory (MBTI) during the Orientation Session. Results of these assessments will be discussed during the Core I Training Session.

Individual Development Plan (IDP)

Each participant will design an Individual Development Plan (IDP) as the "blueprint" for her/his developmental program. The WEL Program will provide an IDP format that will include provisions for defining and meeting specific career development objectives. The WEL Program staff will provide individualized counseling to each participant in designing her/his IDP. Preparation of the IDP is coordinated with the first-line supervisor and the Agency Program Coordinator.

Core I and II Training Sessions

The Core I Training Session is a five-day residential training program that emphasizes the roles and responsibilities of supervisors/managers and discusses the participants' needs assessments in relation to these roles and responsibilities. Participants receive their assessment results and formulate their IDP's during this training session.

The Core II Training Session is a residential, two-week course of management training based on the management development needs of the class as a whole.

The Core I and Core II Training Sessions will be conducted at residential training sites in close proximity to the Washington, DC, metropolitan area as well as possibly being conducted at regional training sites.

Developmental Work Assignments

Each participant will complete, at a minimum, one 30-day and one 60-day developmental assignment, counted as either calendar or work days, outside of their current position to provide breadth of work experience. Participants will physically be away from their current jobs for these developmental assignments.

Focus Group Activity

During the Orientation Session participants will be assigned to Focus Groups, designed to encourage the strengthening of leadership and interpersonal skills, to stimulate commitment to personal development, and to provide a forum for exploring and addressing current issues facing supervisors and managers in the Federal workplace. The Focus Group will design and deliver a three-hour presentation for their entire class during a session conducted at a residential training site or at regional training sites.

Shadowing Assignment

Each participant will complete a one-week assignment to gain exposure to managerial duties, responsibilities, and approaches by "shadowing" a Federal manager at the GS/GM-13 level or above.

Executive Interviews

Participants will interview three Federal officials, including a member of the Senior Executive Service (SES) and a female manager. Like the two developmental work assignments and the shadowing week, these Executive Interviews provide participants with exposure and visibility at the highest levels of management and also provide opportunities to gain critical information for long-term career planning and development.

Management Readings

Participants are required to read three books on management issues. They will be provided with a Management Reading List at the Orientation Session.

Program Impact Paper

As a finale to the Women's Executive Leadership Program, each participant will prepare a paper addressing the impact of the year's experiences on their career plans and objectives and insights gained in meeting each of the Women's Executive Leadership Program objectives. The Program Impact Paper will be submitted both to the participant's first-line supervisor and the WEL Program office.

Program Close-Out and Graduation Ceremony

A five-day Close-Out Session will be held at the end of the WEL Program year. The two-day Congressional Briefing will provide the WEL Program participants with an overview of Congressional operations. The two-day Transitioning Workshop will give the participants an opportunity to evaluate the Program and transition them into the next phase of their careers. Supervisors, Agency Program Coordinators, and participants' guests are invited to attend the one-day Graduation Ceremony.

Accommodations for Physically Challenged Participants

With adequate notice, the Women's Executive Leadership Program can accommodate physically challenged employees attending residential training. We will not, however, pay the cost for special services such as interpreters and readers. Agencies are authorized to pay for the costs of these special services [Ref.: FPM Chapter 420-A-S(9)].

Agency Program Coordinator

Each department or agency represented in the Women's Executive Leadership Program will appoint an individual to coordinate its WEL Program responsibilities and to ensure that associated administrative tasks are carried out. The individual should be someone with responsibility for supervisory/managerial development or training within the agency. As part of her/his responsibility, the Agency Program Coordinator will maintain a record of participant developmental activities and serve as liaison with the WEL Program office. The name, title, full agency address, and telephone number of the designated Program Coordinator must be included in the Nomination Package.

Information

For more information, please contact the Director, Women's Executive Leadership Program, on 202/632-5109.



Participant Qualifications

The Women's Executive Leadership Program is open to full-time, permanent Federal employees, women and men, at the GS-11 and GS-12 levels or salary compatible (for example, Wage Grade or Foreign Service). The Program is designed for both nonsupervisors and new supervisors with less than one year's supervisory experience during their entire Federal careers. Individuals should be nominated based on their supervisory and management potential and motivation to participate fully in and complete all of the assignments of the year-long WEL Program.

Program Entry Date

The Women's Executive Leadership Program Orientation Session is scheduled for the Summer of 1993 at a residential training site. Selectees will be notified of the location and time of the activity. The FY93 Women's Executive Leadership Program will end in the Summer of 1994.

Cost

Tuition is \$3350.00 per person for the year-long Women's Executive Leadership Program. Payment should be made to the U.S. Office of Personnel Management using the SF-182 or other approved agency training form. The tuition payment does not cover travel or per diem costs. The travel, food, and lodging costs for the Orientation Session, Core I Training Session, Core II Training Session, Focus Group Presentation, Congressional Briefing, Transitioning Workshop and the Graduation Ceremony are the responsibility of the employing agency. Reservations will be made for participants by the Women's Executive Leadership Program office, and food and lodging costs will be at or below per diem rates for the area where the residential training events will be conducted.

Nomination Procedure

Nominations for the Women's Executive Leadership Program should be sent by the appropriate agency official to:

US Office of Personnel Management
Office of Executive and Management Development
Long-Term Development Programs
Women's Executive Leadership Program
PO Box 164 Room 308
Washington, DC 20044

The Nomination Package should include the following:

- ❖ A completed SF-182 or approved agency training form with all the necessary agency approvals and signatures completed.
- ❖ An updated SF-171 signed and dated by the applicant in ink.
- ❖ The name, title, complete agency address, and work telephone number of the first-line supervisor.
- ❖ The name, title, complete agency address, and work telephone number of the Agency Nominating Official.
- ❖ The name, title, complete agency address, and work telephone number of the Agency Program Coordinator.
- ❖ A statement assessing the applicant's potential for supervisory/managerial work to be submitted by either the first-line supervisor or the Agency Nominating Official.

Nomination packages including all of the information listed above must be received by the Women's Executive Leadership Program office no later than Friday, March 19, 1993. Nomination Packages will NOT be accepted after the March 19th deadline date. The Women's Executive Leadership Program office will notify Agency Nominating Officials and first-line supervisors in writing of final selections in April, 1993. Participants will be notified of their selection in writing in May, 1993.



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02-04-2019 FOIA # 60048
(URTS 16452) DOCID:
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OVERSIGHT

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: McNULTY, PAUL J., & SCHLESINGER, STEVEN, R., OPC
To: AG. ODD: NONE
Date Received: 01-19-93 Date Due: NONE Control #: X92123118357
Subject & Date
04-08-92 MEMO PROVIDING CRIMINAL JUSTICE STATISTICS.

	Referred To:	Date:	Referred To:	Date:	
(1)	OAG;FILES	01-26-93	(5)		W/IN:
(2)			(6)		
(3)			(7)		PRTY:
(4)			(8)		1S
	INTERIM BY:		DATE:		OPR:
	Sig. For: NONE		Date Released:		EHZ

Remarks

EXEC. SEC. REC'D FROM OAG/LEVIN ON 01-26-93 FOR
CONTROLLING PURPOSES.

Other Remarks:

OLA CONTACT:

FILE: OFFICE OF POLICY AND COMMUNICATIONS

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

8 APRIL 92



U.S. Department of Justice

Office of Policy and Communications

Director

Washington, D.C. 20530

April 8, 1992

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Paul J. McNulty *PJM*
Steven R. Schlesinger *SR*

SUBJECT: Criminal Justice Statistics of Interest

1) **What percentage of arrestees have an existing criminal justice status at the time of arrest?**---The National Pre-trial Reporting Program collected a sample of felony case filings from February 1988 in the 75 most populous counties in the United States. The sample revealed that 4% of felony defendants were on parole, 14% were on probation, and 11% were on pre-trial release at the time of their arrest for a felony.

A second source of information is the 1989 Survey of Inmates in Local Jails. This nationally representative Survey revealed that among the estimated 162,000 persons held in jail pending trial or adjudication at the time of the Survey, 12% were on parole, 24% were on probation, 6% were on pre-trial release, and about 2% were on some other type of release or escape from custody at the time of the arrest for which they had been jailed (about the same as in 1983 Survey).

2) **What percentage of felons on probation are recidivists?**---A recent BJS study followed 70,000 probationers in 32 counties across 17 states--about a fourth of those sentenced to probation in 1986. Sixty-two percent of the probationers followed either had a disciplinary hearing for violating a condition of their probation or were arrested for another felony. Within 3 years, 46% of all probationers had been sent to prison or jail or had absconded.

3) **Has crime gone down in jurisdictions with preventive detention?**---While BJS does not have data which answer this question by jurisdiction, the National Pre-trial Reporting Program does tell us a great deal about how pretrial detention can help reduce crime. Among felony defendants who were released prior to case disposition in the 75 largest U.S. counties:

12
24
6
2

44%

- 24% failed to appear for a scheduled court appearance;
- within one year of the failure to appear, 66% of those who failed to appear had been apprehended as a result of a bench warrant and 34% remained fugitives;
- among those released prior to trial, 18% had a new arrest for a felony charge;
- among those released defendants who were rearrested with a new felony charge, 17% were rearrested for a violent felony offense (3% of all felony pre-trial releases), 28% (or 5% of all those released) were subsequently rearrested for a property felony, 33% (or 6% of all those released) were rearrested for a drug felony, and 22% (4% of all releasees) were rearrested for a public order felony; and,
- among felony defendants released prior to trial, those most likely to be rearrested for a new felony were males, those age 35 or older, those with the most extensive and serious prior conviction histories, and those originally charged with a drug felony.

By the time of adjudication of the original felony arrest, 21% of the detained felony defendants were not subsequently convicted persons versus 34% of the released felony defendants. Among those who were convicted, 21% of released defendants and 46% of detained defendants received prison sentences. These data suggest that pretrial detention reflects strength of the evidence and the nature of the defendant and can help reduce crime.

4) What is the relationship between prior criminal history and subsequent outcome after imprisonment?---BJS conducted a 3-year follow-up of a sample of offenders released from State prisons in 11 States in 1983 and drawn to represent 109,000 persons exiting prisons that year. The follow-up was the largest ever conducted in the United States and utilized RAP sheets from both the FBI as well as State criminal history repositories to track the releasee sample. Within three years of their release, 62.5% of the offenders were rearrested and charged with a new felony or serious misdemeanor. The probability of rearrest varied with the extensiveness of the prior arrest history:

<u>Number of prior arrests</u>	<u>Percent rearrested</u>
1	38.1%
2	48.2
3	54.7
4	58.1
5	59.3
6	64.8
7-10	67.7
11-15	74.9
16 or more	82.2

The direct relationship between prior arrest history and the probability of rearrest was true at each age. Among those aged 18 to 24 at release, 49% of those with 1 arrest were rearrested compared to 94% of those who had at least 11 prior arrests. The probability of rearrest among first arrestees declined with greater age, however. By age group, those with a single prior arrest for which they had been convicted and imprisoned had the following probabilities of rearrest:

18-24	48.6%
25-29	29.2%
30-34	24.8%
35-39	6.8%
40 or older	12.1%

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: SCOTT, RIDER, OPC

To: AG.

ODD: NONE

Date Received: 11-09-92 Date Due: NONE

Control #: X92111316478

Subject & Date

04-23-92 MEMO REGARDING COMMENTS PROVIDED BY JOHN WALSH,
HOST OF "AMERICA'S MOST WANTED," REGARDING THE VIOLENT CRIME
REPORT.

(NOTE: REC'D FROM OAG ON 11-09-92.)

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;FILES	11-13-92	(5)			W/IN:
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	INTERIM BY:			DATE:		OPR:
	Sig. For:	NONE		Date Released:		EHZ

Remarks

Other Remarks:

OLA CONTACT:

FILE: OFFICE OF POLICY AND COMMUNICATIONS

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

23 APRIL 92



U.S. Department of Justice

Office of Policy and Communications

Office of the Deputy Director

Washington, D.C. 20530

MEMORANDUM

TO: Violent Crime Report
FROM: Rider Scott
RE: John Walsh Comments
DATE: April 23, 1992

This date, John Walsh, Host of "America's Most Wanted", called with comments regarding the Violent Crime Report. He indicates that the report was "excellent". It is the type of document which is necessary to effect change in the country.

He has found through ten years of experience that the changes necessary can only be mandated by state legislatures. His struggle to effect that change he says is like dealing with fifty separate countries and the only way to succeed is to focus on the legislators themselves.

To accomplish this the citizens must force change. They are frustrated enough with the system to demand changes. For instance, "America's Most Wanted" averages 5,000 calls a week on their hotline. The citizens need a call to action. This report needs to give the average citizen some way to focus their attention - a practical step by step way to implement constructive change instead of just ranting against the system.

Truth in Sentencing

Not only should there be "truth in sentencing" by the courts, there should also be truth in the media reporting of the sentence. For instance, he says a 25 to life sentence in the state of New York means only seven years of actual time served. The media should have a responsibility to translate a sentence received into what the time served would be. This will require a change in editorial board policy in each of the nation's papers.

A state law which requires either the judge or the jury to announce or be told what the actual time served or good time accrued would be is a step in that direction. He is not sure of the means to implement this. Bruce Coulton, State's Attorney

Indian River County, Florida has completed a study for an independent group called STOP. It indicates that the average time served in the state of Florida, where Walsh is from is approximately 18%. (We are trying to verify this)

The average citizen does not know about "gain time" or "administrative good time". He says that across the country the pendulum has swung so far that in some institutions inmates are receiving two days of good time credit for every day that they actually serve.

Drug Testing

Although this is a controversial area, Walsh thinks that testing should be mandatory where there is a felony conviction for child abuse or rape. The victim should be able to know if they're also going to receive a death sentence due to the assault from an HIV infected defendant.

This mandatory testing should only be after conviction. Why should victims of sexual assault and child abuse have to wait two years to find out if they have been infected? The test should follow immediately after conviction.

Habeas Corpus

This needs to be broken down into terms for the average citizen so that they can understand what the problem is. There is public support for stopping an unending system of appeals.

In fact, most previous Supreme Court Justices (i.e., Powell Report) and the current Chief Justice say the appeals process is unending and too expensive. Some studies suggest that West Germany is superior to our system in processing appeals.

The Warden of Folsom Prison says that the litigation is endless and inmates file a multitude of frivolous claims. For every complaint that they file they are represented by four attorneys' drawing \$200 an hour. The same attorneys' couldn't obtain \$50 an hour in private practice.

Further the Warden says that Folsom Prison was self sufficient several years ago. Now all the cells have t.v.'s in them. The Warden indicates inmates are not "doing hard time, they're having a good time".

Additional Recommendations

Walsh recommends the passage of a Victims' Bill of Rights. It exists currently in only twelve states. He will have the Roper Committee fax to us a generic outline of the statute. The states have laws protecting the criminals it's only fair that they have laws protecting the victims.

Exchange of Information

It is important that federal, state and local law enforcement agencies exchange criminal history information. A case in point is a defendant by the name of Mark Goodman. He had escaped from ten jails in the Florida area and was one of the U.S. Marshal's 15 Most Wanted. It turned out he was in the Palm Beach Florida Stockade and was pumping gas as part of a work program for his 60 day sentence. When he found out about the planned service of the federal warrants he jumped a razor wire fence and escaped again. No one had received his record telling them of the outstanding warrants or escape potential.

The F.B.I. fingerprint facility in West Virginia will not be up and running for two years. The AFIS system, as currently available, only searches host state databases. They don't exchange information between the states. If we can put the Hubble Telescope in space, put a man on the moon, why can't we send criminal information between the states?

Repeat Offenders

Walsh suggests use of the statistic where 20% of the defendants nationwide commit over 80% of the crime. This shows that there is a segment of violent predators responsible for the majority of the nation's crime. By incapacitating this small group a broader impact on violent crime can be made.

Resources

An area that needs improvement is mandatory training for judges. He thinks that in South Carolina there is only voluntary training in a state where judges are appointed for life. Many of the judges indicate they would be willing to go to mandatory training if they had funding for that purpose. An example would be training to explain the recent improvements in DNA analysis.

Sexual Assault

Walsh is having forwarded to us a copy of selected legislation for children prepared by the National Center for Missing and Exploited Children. There is a brochure that summarizes their proposals.

Both Walsh and Oprah Winfrey appeared before Congress to back the creation of a National Sex Offender Registry. The purpose would be to inventory those defendants who have committed sexual crimes such as rape, child molestation and other sexual assault type offenses. They could be used for investigation of unsolved crimes to determine similar methods or patterns. An example is Warren Bland who was recently arrested and has confessed to three murders in California. Part of the operandi of the crimes included pulling the genitalia off of the children with pliers. When this fact was compared to the registry inventory it provided his name as a primary suspect.

Background checks should also be performed on those professions which deal with children. Specifically school teachers, day care providers, bus drivers and others having direct contact with juveniles should have their backgrounds checked by law enforcement entities prior to employment. Even a stable trainer who rubs down horses, the track assistant that handles greyhounds or a janitor in a casino has extensive background checks, just like doctors and lawyers. It should not be acceptable to allow teaching applicants to enter the classrooms with our nations' youngsters without having a background check.

In Florida last year they turned down 300 teacher applicants because they failed the background. The background check is paid for by the applicant. An education administrator in Florida indicated that while they weren't teaching in Florida they were probably teaching in some other state.

The record checks for the professionals working with children should contain the following safeguards: A) rejection only on conviction; B) the individual is entitled to a copy of the report; and C) the individual can challenge the accuracy of the report.

Walsh notes that a high school teacher who testified with him before Congress said that they are not denying employment to these individuals. "They can be a state legislator or an astronaut. They simply can't associate with children". Where else would a pedophile choose employment to gratify his desires?

Oprah's primary interest is in the Boys' Club and Big Brothers and Big Sisters. The latter of these organizations agreed to run their own background checks since their employees had over 80 sexual assaults and 40 convictions during the last several years. They wanted to protect the little brother not the big brother.

Walsh notes on a personal note that his son was murdered ten years ago and that has created his personal involvement and commitment to these issues.

The format of the report should be to stress what the average citizen can do to get involved. Society lives behind bars and in fear. People are mad that they don't know how to effect change. The next time a candidate for public office asks for a contribution ask them where they stand on these issues.

Walsh has lived through several administrations while the host of "America's Most Wanted". This is the first time that someone is really trying to do something important and the report is right on target.

Follow Up

The above recommendations, can be boiled down to three specific areas which Walsh would recommend consideration of: 1) the Victims' Bill of Rights to be enacted by the respective states; 2) background checks for those who would work with children; 3) a Sexual Registry of those convicted of sexual assaults or sexual crimes.

Walsh will be in the studios in D.C. on Monday, April 27th and on Tuesday in Baltimore doing a remote. (He would be a possible person to include in the press conference for Friday, May 1, 1992.)

Addendum

As a result of the phone call from John Walsh, Bruce Coulton, States' Attorney, Indian River County, Florida, had Judy Deeson call me regarding operation STOP. She will attempt to send information relating to a 550 day one time award of "gain time" to Florida inmates within the last four weeks. Additionally she will verify the statistics that Florida inmates serve 18% of time imposed. She further referenced to the Executive Director of STOP:

Kathleen Finegan
141 West Marion
Punta Gorda, Florida 33950
Executive Director, STOP
Phone: (813) 757-2100
FAX (813) 639-8704

Florida has another volunteer organization called Strike Force in Jacksonville, Florida which attempts to provide statistical information. She will provide a number for this program. Karen Tate, John Walsh's Executive Assistant can reach him. Tate's number is locally 895-3092.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: SCOTT, RIDER, OPC

To: AG.

ODD: NONE

Date Received: 11-09-92 Date Due: NONE

Control #: X92111316476

Subject & Date

04-30-92 MEMO PROVIDING A PROJECT UPDATE OF THE VIOLENT
CRIME REPORT AND THE NATIONAL GOVERNORS' ASSOCIATION PUBLIC
SAFETY COMMITTEE STAFF MEETING.

(NOTE: REC'D FROM OAG ON 11-09-92.)

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;FILES	11-13-92	(5)			W/IN:
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Remarks

Other Remarks:

OLA CONTACT:

FILE: OFFICE OF POLICY AND COMMUNICATION

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

30 APRIL 92



U.S. Department of Justice

Office of Policy and Communications

Office of the Deputy Director

Washington, D.C. 20530

MEMORANDUM

TO: **William P. Barr**
Attorney General

FROM: Rider Scott ^{RS}

RE: Project Update

DATE: April 30, 1992

Violent Crime Report

After my discussions with Governor Bob Miller's General Counsel, Brian Harris, it may be advisable for you to call Governor Miller. Harris indicated there may be some concern by the Governor that this is yet another federal mandate to the states. Rather than a mandate, it was noted to Harris that it was a compilation of both federal and state statutory and procedural acts which have proven effective in combatting violent crime.

Your conversation with Governor Miller could affect his perception of the role the Violent Crime Report will play. Governor Miller chairs, as you recall, the Public Safety Committee of the National Governors' Association and he would be instrumental along with Governor Weld in presenting the report to that organization.

John Walsh, Host of "America's Most Wanted", called with several interesting comments and observations regarding the Violent Crime Report. He provides a unique perspective, outside of the law enforcement profession of the general public's reaction to the recommendations. Walsh is also sensitive to victims' issues since his son was murdered ten years ago.

National Governors' Association

Included in my summary notes of the Public Safety Committee staff meeting, are comments made by one of Senator Biden's Judiciary staff members. His comments reflect Biden's views regarding

the reorganization of the Office of Justice Programs. He notes a philosophical difference over autonomy of the component divisions (BJS, BJA and OJJDP) and the overall management of the office by OJP. He told those in attendance that the priorities of the component division will be set by the Attorney General and not by the state and local fund recipients as Senator Biden wishes.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: MCNULTY, PAUL, SCHLESINGER, STEVEN & HIMMELFARB, EDWARD, OPC
To: AG. ODD: NONE
Date Received: 01-19-93 Date Due: NONE Control #: X92123118353
Subject & Date
05-15-92 MEMO REGARDING ALLEGATIONS OF RACIAL BIAS IN THE
CRIMINAL JUSTICE SYSTEM.

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;FILES	01-19-93	(5)			W/IN:
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	Sig. For:	NONE		Date Released:		KIM

Remarks

EXEC. SEC. RECEIVED FROM OAG/LEVIN ON 01-19-93 FOR
CONTROLLING PURPOSES.

Other Remarks:

OLA CONTACT:

FILE: OFFICE OF POLICY AND COMMUNICATION

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

15 MAY 92



U.S. Department of Justice

Office of Policy and Communications

Director

Washington, D.C. 20530

May 15, 1992

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Paul J. McNulty *PM*
Steven R. Schlesinger *SRS*
Edward Himmelfarb *EH*

SUBJECT: Allegations of Racial Bias in Criminal Justice System

You may expect a question something like this: "Do you agree with those who say that the criminal justice system discriminates against black males?"

Here is a possible answer:

- No, I do not agree with this assertion.
- Very credible studies show that there is virtually no difference in the way the criminal justice system treats blacks and whites.
- Law enforcement must be completely color-blind in its work -- those who commit crimes must be held accountable.
- The people who criticize high incarceration rates for black men don't tell you that overwhelmingly the victims of their crimes are law-abiding black Americans.
- In fact, in 1990, 84% of black violent crime victims said that the offender was black.
- Strong law enforcement is the best protection for all our citizens, both black and white.

The remainder of this memorandum is divided into two parts: first, a discussion of the evidence that the criminal justice system, as a whole, treats blacks as fairly as it treats whites, and a summary of the policies we support that keep bias out; and second, an analysis of the flaws in the frequently cited studies purporting to show racial bias.

Statistical Evidence For Equal Treatment.

1. **Langan study.** In 1985, Patrick Langan of BJS published a study in which he tested two theories for relatively large numbers of blacks in state prisons -- differential involvement in crime, and differential treatment (racial discrimination). Langan's findings more strongly supported differential involvement than racial bias. Langan estimated the expected racial admissions to state prisons on the basis of description of offenders provided by victims in the National Crime Survey and compared these estimates with actual admissions to state prison.

<u>Year</u>	<u>Est. Black Pct.</u>	<u>Actual Black Pct.</u>
1973	48.1%	48.9%
1979	43.8%	48.1%
1982	44.9%	48.9%

Langan's estimates show that black prison admissions can essentially be explained in race-neutral terms -- especially in light of the Rand study described next.

2. **Rand study.** In 1990, the Rand Corporation published a study of sentencing decisions in California analyzing data on over 11,500 offenders. Rand attempted to control for factors that previous studies had not considered, such as conviction offense, criminal record, and demographic factors. The Rand study concluded that one could predict with 80% accuracy whether an offender would be sentenced to probation or prison.^{1/} Adding the offender's race to the equation did not improve the accuracy of this prediction. Race was also unrelated to the length of prison term imposed.

The Rand study, in discussing Langan's previous study, said that Langan had failed to control for "legitimate sentencing factors (such as the offender's prior record and victim injuries) that might explain" the difference his study found.^{2/}

3. **BJS, Prison Admissions and Releases, 1983.** BJS examined racial differences in sentence lengths for inmates admitted to state prison nationally in 1983. When criminal histories and geography (differences in state laws where black populations are high) were factored out, "the estimated mean sentence length for blacks is 63.6 months, nearly 3 months shorter than the actual mean observed for whites." More recent data are discussed immedi-

^{1/} Among the variables that supported predictions of a prison sentence were multiple current conviction counts, probation or parole status at time of offense, prison release within 12 months of offense, use of weapon, history of drug or alcohol abuse, age over 21 years, going to trial and not pleading, not being released pending trial, and not being represented by a private attorney.

^{2/} Rand also referred to a study by Prof. Alfred Blumstein, which predicted a 43% black prison population based on arrests. Rand stated that Blumstein's failure to control for the same factors as Langan might be the basis of the 5 to 6% differential he found.

ately below.

4. **BJS, National Corrections Reporting Program, 1988.** Data recently published show fairly similar statistics on sentence length and time served for white and black state prisoners -- without even factoring in criminal histories. For example, for violent offenses:

	White		Black	
	<u>Median</u>	<u>Mean</u>	<u>Median</u>	<u>Mean</u>
Sentence length	72 mos.	110 mos.	72 mos.	116 mos.
Time served	24	33	25	37

In fact, whites fare more poorly in some important crimes. For murder, the median white sentence was life, while the median black sentence was 480 months; the mean was 312 months for whites and 305 months for blacks. (On the other hand, blacks fare worse on time served for murder: median 72 months to 64 months; mean 83 months to 76 months.)

5. **Miami Herald.** In 1984, prompted by claims of racial bias after an all-white jury acquitted Luis Alvarez, a Miami policeman, on charges of killing a 20-year-old black man, the Miami Herald conducted a study that showed no significant difference in the way all-white and mixed-race juries decided cases involving black defendants. In fact, the statistics showed that the likelihood of conviction improved as the number of blacks on a jury increased.

6. **Pro-Fairness Policies.** The most important pro-fairness policy is sentencing guidelines. For all the criticism from judges who feel they are being deprived of their authority to formulate sentences on their own, the guidelines system is racially fair, and precisely for the reason that judges criticize -- the elimination of discretion. The Rand study made a "tentative conclusion . . . that California's Determinate Sentencing Act has contributed to racial equity in sentencing," although it left this as an open question.

A second pro-fairness policy is the Equal Justice Act we have proposed for capital sentencing as an alternative to the Racial Justice Act, which would effectively abolish the death penalty. The Equal Justice Act codifies the protections against racial bias against the defendant through examination of jurors on voir dire, change of venue, and prohibition of prejudicial remarks before the jury. To guard against racial bias against the victim or in favor of the defendant, the prosecutor would be given the same right to these remedies as the defense.

Finally, reducing the black incarceration rate on the pretext of unfairness would itself be unfair to blacks, who are victims of crime at higher rates than whites. For example, from 1979 to 1986, the rate of violent crime victimization was 44 per 1000 blacks, and 34 per 1000 whites. The vast majority of violent crimes against blacks were committed by other blacks. From 1979 to 1986, blacks were victims of about 13% of all single-offender violent crimes other than murder nationwide, but in about 11% of all cases (that is, in over 80% of black-

victim cases) the offenders were also black. In 1990, 84% of black victims of single-offender violent crimes said that the offender was black.

7. **Vulnerabilities.** First, while it may be generally true that black and white sentences and time served are similar, this will not hold true for every year, every offense, and every part of the country. Second, we may criticize the methodology of studies purporting to show bias, but we do not have studies on every subject proving that there is no bias. There is a difference between, on the one hand, showing that their statistics are based on faulty analysis and, on the other hand, showing what the correct statistics are.

Studies Purporting To Show Racial Bias in Criminal Justice System.

We have found flaws in every study we have examined. For example, these studies typically do not take into account the criminal histories of the offenders, the higher offending rates of blacks, the particular laws in effect where large numbers of blacks live, and so on.

I think your response to a "What about all those studies?" question might be: "We have looked at those studies, and every single one suffers from a major flaw -- sometimes as obvious as failing to take into account that criminals are legitimately treated differently if they have different criminal records."

The bias charge also raises this question: If men are disproportionately found in the criminal justice system, does this mean the system discriminates in favor of women?

And where do these arguments lead in any event? Mark Kleiman of the Kennedy School asks, "What laws [do they] propose to repeal? If you said to people in the neighborhoods, 'Should we stop arresting the crack dealers?' I think they'd say no."

1. **Federal Judicial Center (sentencing).** This study purports to show that the average sentence imposed on blacks in cases believed to be subject to mandatory minimums was 49% higher in 1990 than the average sentence imposed on whites.

- Response: The author of this study concedes that race explains very little about sentences -- far less than statutory and guidelines factors. She also admits that the perceived racial factor may have to do with neutral sentencing practices in districts with high black populations.
- In addition, the underlying data have extremely serious limitations. First, the data do not disclose whether offenders had prior convictions for drug offenses.
- Second, the study concedes that its data do not always reflect relevant conduct under

minimum mandatory statutes.^{3/}

- Finally, the data were based on probation officers' views about the conduct they think actually occurred, rather than on what prosecutors thought they could prove. Thus, it failed to take into account problems of proof in individual cases.

2. **U.S. Sentencing Commission (mandatory minimums).** This report, generally critical of mandatory minimums, alleges that prosecution practices in the application of mandatory minimum sentencing create unexplainable racial disparities. Whites who qualified for minimums were less likely to receive a sentence at or above the minimum.

- Response: The Commission determined whether a case was appropriate for a mandatory minimum based on a "reasonableness" standard, rather than the standard of "beyond a reasonable doubt" that prosecutors use under DOJ guidelines.
- Thus, the Commission included cases that prosecutors were not permitted to charge; a failure to pursue mandatory minimums in these cases should not be factored in to the report's conclusions.
- In addition, the study itself candidly admits that, "given the sample size and the lack of sufficient time for stringent study," its "findings cannot be considered conclusive."

3. **Sentencing Project (miscellaneous).** Black males are 6% of the American population but 44% of the state prison population.

- Response: This incorrectly assumes that crime rates are uniform among all segments of the population. (See Langan study.) We cannot imprison by quota. The point about male-female ratios also applies here.

The Sentencing Project also argues that the black incarceration rate in the U.S. is higher than in South Africa.

- Response: There is no effort to compare crime rates in the two countries. Also, the report doesn't explain South Africa's method of counting its prisoners. In contrast, the U.S. prisoner data are collected by BJS using standardized definitions, and the data obtained and the respondents who supplied the data are available to anyone wishing to pursue the accuracy of the count.

^{3/}

For example, the drug amounts used in the study are based on the portion of pure drug, whereas the courts look at the entire amount of substance, including impurities. Also, no distinction is made between crack and powdered cocaine, despite the fact that crack cases trigger minimum mandatories at significantly lower levels. (5 grams for crack, 100 grams for powdered cocaine get 5-year minimums; 10 grams vs. 5 kilograms get 10-year minimums.)

4. **USA Today (drug arrests).** As described in the Post, 15% of drug use is by blacks (NIDA), while 41% of drug arrests are of blacks (FBI).

- Response: This is apples and oranges. The NIDA figures are from a household survey of drug use. The FBI arrest figures are not for drug use but for "drug abuse violations" including sale/manufacture and possession.

5. **San Jose Mercury News (plea bargaining, charge reduction, etc.).** Whites generally fare better than blacks and hispanics in California in negotiating pleas, getting charges dropped or reduced, and getting probation or fines instead of prison.

- Response: The statistics provided all show blacks, whites, and hispanics within a few points of each other.
- In addition, while the study tried to adjust for criminal records and use of a weapon, it is impossible to judge whether the facts of individual cases (such as the extent of injury to a victim) differed. These differences may have accounted for the different treatment received.

6. **Baldus study (capital sentencing).** Juries are statistically more likely to vote death sentences for murders of white victims than for murders of black victims.

- Response: Overall, the cases studied had different aggravating and mitigating factors. White-victim cases (72% of which had white offenders) tended to have more aggravating factors, and black-victim cases (95% of which had black offenders) tended to have more mitigating factors.
- In addition, the sampling of cases was small. Baldus started out with 1,082 cases in his sample, but when he looked at only the 620 black offender cases and attempted to control for aggravating and mitigating factors, he found disparity mainly within the class of medium-aggravation-level murders. In this category, he was dealing with 149 murders -- a small sampling indeed.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: SCOTT, RIDER, DEPUTY DIRECTOR, OPC
To: AG.

ODD: NONE

Date Received: 01-19-93 Date Due: NONE

Control #: X92123118376

Subject & Date

08-06-92 MEMO PROVIDING AN UPDATE REGARDING PRESS COVERAGE
OF THE AG'S AUGUST 3, 1992, TRIP, "RUIZ v. COLLINS" AND THE
VIOLENT CRIME REPORT; WITH ENCLOSURES.

	Referred To:	Date:	Referred To:	Date:	
(1)	OAG; FILES	01-28-93	(5)		W/IN:
(2)			(6)		
(3)			(7)		PRTY:
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	INTERIM BY:		DATE:		OPR:
	Sig. For: NONE		Date Released:		MAU

Remarks

EXEC. SEC. REC'D FROM OAG/LEVIN ON 01-19-93 FOR CONTROLLING
PURPOSES.

Other Remarks:

OLA CONTACT:

FILE: OFFICE OF POLICY AND COMMUNICATIONS

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

6 AUGUST 92

Memorandum



Subject	Date
Update	August 6, 1992
To	From
William P. Barr Attorney General	Rider Scott Deputy Director, OPC

August 3, 1992 Trip

Attached are copies of newspaper coverage in the San Antonio Light, Express News and Daily Oklahoman. Video tape copies of television coverage are being forwarded.

ACA response to your comments were favorable. They appreciated the balanced nature, not emphasizing incarceration to the exclusion of intermediate sanctions or alternatives to confinement. Participants at the conference rumored about Mike Quinlan's absence and possible changes at NIC.

Ruiz v. Collins

A dispute has arisen between the plaintiffs and the defendants concerning the narrative language of the notice to the plaintiff's class. This seemingly minor drafting issue underscores a general uneasiness by parties on both sides to the settlement. Although the procedural chronology of settlement moves forward, the possibility of disruption or dissolution of the agreement still remain.

Violent Crime Report

Distribution of the violent crime report is continuing. Among those provided copies are: all members of Congress, all Governors, all Attorneys General; targeted State Legislators; John Walsh; Safe Streets Alliance; White House; Heritage Resource Bank and conservative editorialists; Police Chiefs; Sheriffs, and prosecutors with a jurisdiction of 50,000+. The demand for copies has required a second printing.

Barr urges prison space, aid to youths in crime war

By James Coburn
Express-News Staff Writer

Crime must be fought both with more prison space and innovative programs like the Coalition initiated by Mayor Nelson Wolff, U.S. Attorney General William Barr said Monday.

"We have to attack crime on two fronts," Barr told 1,000 corrections officials attending the American Correctional Association's 122nd annual Congress of Correction.

"On one hand, we have to deal aggressively with the criminal of today that is

wreaking havoc on the streets" by providing enough prison capacity to keep habitual violent offenders locked up for their full terms, he said.

"At the same time," Barr added, "we have to, in the words of the mayor, break the vicious cycle. We have to do the best we can to try to prevent the young people of today from becoming the criminals of tomorrow, because we'll never have the capacity to deal with what's coming down the pike unless we take action now."

Wolff, in welcoming the corrections offi-

cials to San Antonio in the general session at Lila Cockrell Theater, said punishment is necessary because people must know they will be punished if they commit crimes.

"But we've found that it takes a lot more than that," Wolff said. "We have put together a coalition of business and recreational projects and developed a program for young people to break that cycle," he said.

"I just want to report to you that the first month of summer had a significant decrease in crime with respect to juveniles."

Barr praised the Coalition and the Justice

Department's "Weed and Seed" program that is designed to weed out criminals and seed an area with programs to help the community.

"Social programs can't be a substitute for tough law enforcement," Barr noted.

"A critical part of the solution to this problem is providing enough prison space for the chronically violent offender," Barr said. "I personally believe the best way to make significant reductions in the near term in crime is to incapacitate habitual violent offenders."

SAN ANTONIO LIGHT
TUESDAY
AUGUST 4, 1992

METRO

INSIDE

Blotter/B4
Editorials/B6

Death notices/B4
Viewpoint/B7

B

(Call us with news tips: Dial LightLine 554-0600 from a touch-tone phone, enter C-I-T-Y and follow instructions)

U.S. attorney general touts deporting criminal aliens

■ **PRISONS:** Barr: Deporting
criminal aliens would make
jails cheaper to run

By LISA MASCARO

Deporting criminal aliens and reducing court control could free up more jail space and make prisons cheaper to run, U.S. Attorney General William Barr told corrections workers at a convention here Monday.

Speaking to members of the American Correctional Association at the Convention Center, the nation's top law-enforcement official said his office is striving to reduce the number of illegal aliens in the prison system by working with other federal agencies.

He said the United States is stepping up border patrols and working more closely with the Immigration and Naturalization Service to deport those who commit crimes.

"We're committed to protecting the constitutional rights of inmates, but . . . we could free up 16,000 beds if we were able to reduce those criminals who are not citizens and who have no right to be in this country at all," he told those gathered for the convention, which continues through Thursday.

The Justice Department will continue working against what Barr called the "micro-management" of prisons by the courts, Barr said.

"We're doing everything possible to keep prison costs down," Barr said.

Barr also praised members of the correctional association, acknowledging that their work is tough and is among the most important to the nation's safety.

"No one in law enforcement today has a more difficult job than you," Barr said. "Working together we can make a real difference in decreasing crime in this country and making it safer."

HIS criticism of the Bush campaign followed concerns voiced by several members of the traditionally conservative civic group that the Bush campaign "needs to get back on track."

"The campaign is still oriented toward, 'What will be our theme of the week.' Or at the national conven-

tioned man in the first place and let them understand that he does see the problem, he is going to do something about it and not give grand national themes."

Edwards emphasized he supports Bush.

"If you look back and ask are we better off today than we were 12 years ago, I would

ing his chief rival, Bill Price, an unsuccessful candidate for governor in 1990.

"Frankly, I don't think Bill (Price) is very eager to have a debate," Edwards said. "He didn't do very well in the debates we had for governor."

Price campaign manager Jack Edens de-

and work projects to Oklahoma.

"On this campaign, it's just amazing that I have been criticized for the time I have spent for bringing jobs to Tinker or whatever else," Edwards said. "To me that is a very legitimate and important part of the responsibility I have taken on, and I plan to con-

Justice Overhaul Urged

Attorney General Visits City

By Charolette Aiken
Staff Writer

Citing a need for reform in the nation's handling of violent criminals, U.S. Attorney General William P. Barr sought support from local law officers Monday for his 24-point plan aimed at cleaning up the justice system.

Barr also chatted with several district judges before talking at length with members of the Oklahoma City police department's IMPACT team in the office of Oklahoma County District Attorney Bob Macy.

He later made a quick visit to U.S. Attorney Tim Leonard's office, where he presented a flag of special recognition to John Green, Leonard's first assistant. Only four or five such flags are pre-



— Staff Photo by Jim Beckel

U.S. Attorney General William Barr, right, discusses his 24-point plan for overhauling the nation's criminal justice system during a stop in Oklahoma City on Monday. With Barr is Oklahoma County District Attorney Robert Macy.

sented each year, Leonard said.

Green will mark his 30th anniversary with U.S. Department of Justice in January. He has been the interim U.S. Attorney three times and the first assistant for 17½ years.

Earlier, Barr said local police efforts to

curb drug trafficking and violence are "exactly what's needed."

Tough law enforcement, combined with community-based, preventive education, are ways local state agencies can combat the growth of violence, Barr said.

Barr's other recom-

mendations included pretrial detention of dangerous defendants, more restrictive parole practices, mandatory minimum penalties for gun offenders, increased prison facilities, and the death penalty for the most heinous crimes.

Langston Doubts Default Figures

By Jim Killackey
Staff Writer

Langston University officials are challenging federal government figures showing the school with a high default rate on student loans.

College Work Study and Income Contingent Loans.

But it is with the default figures on guaranteed student loans that Langston and federal officials have the most disagreement.

enrollment of 3,500 students. The main campus is in rural Logan County, and there are urban branch campuses in Tulsa and Oklahoma City.

According to the education department, schools with a d

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: MCNULTY, PAUL J. & SCHLESINGER, STEVEN R., OPC
To: AG. ODD: NONE
Date Received: 01-19-93 Date Due: NONE Control #: X92123118381
Subject & Date
09-24-92 MEMO PROVIDING BACKGROUND INFORMATION ON THE
CALIFORNIA CRIMINAL JUSTICE SYSTEM AND RELEVANT STATISTICS.

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;FILES	01-19-93	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1S
	INTERIM BY:			DATE:		OPR:
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Remarks

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24 SEPTEMBER 92



U.S. Department of Justice

Office of Policy and Communications

Office of the Director

Washington, D.C. 20530

September 24, 1992

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM:

Paul J. McNulty *PM*
Steven R. Schlesinger *SR*

SUBJECT:

Background on the California Criminal Justice
System and Relevant Statistics

Background

In early September, the State Supreme Court upheld Governor Wilson's retroactive use of a 1988 constitutional amendment that permitted him to reverse the parole board in the cases of six murderers serving life sentences. The ruling affects 1,241 lifers who were sentenced before the 1988 amendment was passed by referendum. The case is expected to be appealed to federal courts by Johnny Arafiles, who he had served fourteen years of a life sentence for the murder of a witness who testified against his brother.

Earlier this summer, a 15-year-old pleaded guilty to second-degree murder for his role in the shooting death of a woman who refused to surrender her car to gang members who wanted the car for a drive by-shooting. The Youth Authority may hold juveniles until they turn 25. There are 19 youth camps in the state of California, which are run as a partnership between the state and county. Several of the camps were threatened by the budget crisis that affected both state and county budgets this year. An apparently beneficial experiment for troubled youths is the Gangs Are No Good (GANG) program tried at Alisal High School. The program could not be funded statewide this year, but it has reduced gang-related violence at the school by 82%, according to supporters, by opening up lines of communication for at-risk youth.

The California Attorney General and local county law enforcement officials believe the "truce" signed by the "Bloods and Crips" after the riots is a sham. There has been a decline in gang-related homicides in Los Angeles, but violence against city residents has continued virtually unabated. Another truce has been signed by more than fifty rival gangs in Orange County. In that agreement, the "Gangs Council," a group of former gang members, will settle grievances and mediate disputes. Also appearing in

gang cities is the publication *Teen Angels*. The magazine costs about \$7 and is "filled with gang messages, some art work and photos." The publisher of the magazine says it is "intended to promote gang unity." Another growing gang problem is the increase in Asian gangs. There are now an estimated 14,000 members of Asian gangs in California.

Media reports say that jails in 23 of the 58 counties in California are under state and federal court orders and consent decrees that cap the jail population. According to law enforcement leaders, this has helped lead to a morale problem among police officers there. A study found that 88% of police chiefs said their officers "believe they are wasting their time [arresting criminals] because of jail overcrowding."

Mayor Frank Jordan of San Francisco and the city's law enforcement officials urged passage of the Brady bill in mid-September. The Police Chief of San Jose, Lou Cobarruviaz endorsed California's 15-day waiting period that he says prevented the sale of 5,859 guns to felons in 1991.

How Well Does California Meet the Attorney General's Guidelines for An Effective Criminal Justice System?

PROTECTING THE COMMUNITY

--The constitution allows bail to be denied for capital crimes and violent felonies where release would cause harm to others, or the detainee would carry out a threat of harm. Payment of bail may not be accepted if the judge believes any portion was feloniously obtained.

--California has created a career criminal apprehension and prosecution program. The state recognizes that a disproportionate amount of the crime is committed by relatively few individuals. Most crimes carry increased sentences for repeat offenders.

--Increased penalties exist for carrying a concealed weapon in the commission of a felony, and for armed career criminals.

--The state has spent over \$4.3 billion on prison construction since 1981. California has the nation's largest state prison system and uses alternative sentencing, like electronic banding. Capital punishment is available.

--Able bodied prisoners are required to work.

JUVENILE JUSTICE

--The court may assign juveniles who sell drugs on school grounds up to 100 hours of community service.

--A juvenile 16 years or older may be transferred to adult court based on enumerated criteria and for particular crimes. A juvenile may be incarcerated until the age of 25.

TRIAL PROCEDURES

--There is a right to a speedy trial within 90 days.

--The past sexual practices of a complaining witness are generally not admissible. If the defendant intends to seek admission, he must give notice.

--California has a criminal information network.

--Limited wiretap authority is available in drug cases.

VICTIMS RIGHTS

--California has a Victim's Bill of Rights and specific statutory rights that conform generally to your Guidelines.

CALIFORNIA

- California's incarceration rate in 1991 was above the average for all states. Its rate was 320 per 100,000 population, while the average for all states was 287 per 100,000.
- California's 1991 violent crime rate was considerably **higher** than the 1991 national average, and its property crime rate was also higher.

	<u>Calif.</u>	<u>National</u>
Violent crime rate (per 100,000)	1,089.9	758.1
Property crime rate (per 100,000)	5,682.7	5,139.7

- California increased its rate of incarceration from 1980 to 1990 by about 217% -- about twice the national average of 109%. Its rate of reported violent crime rose by 17%, less than the increase in the national rate, which rose by almost 23%. California's overall crime index crime rate dropped nearly 16%, while the national rate dropped 2%.
- In 1991, California's increase in violent crime rates and crime index rates slightly exceeded the national average increases. Its increase in incarceration rates in 1991 trailed the national increase, but its increase since 1980 remained nearly twice the national increase. It continued to have an overall **decrease** in crime index rates since 1980 in excess of the decline in the national average since 1980. The increase in California's violent crime rate from 1980 to 1991 was below the national increase of 27%.

	<u>1980/90</u>	<u>1990/91</u>	<u>1980/91</u>
Incarceration rate - Calif.	+217.3%	+ 2.9%	+226.5%
(all states)	+109.2%	+ 5.5%	+120.8%
Crime index rate - Calif.	- 15.7%	+ 2.6%	- 13.5%
(all states)	- 2.2%	+ 1.3%	- 0.9%
Violent crime rate - Calif.	+ 17.0%	+ 4.3%	+ 22.0%
(all states)	+ 22.7%	+ 3.6%	+ 27.1%

- In FY 1990, California spent \$2.616 billion on corrections -- 3.3% of total state expenditures, more than the national state average of 2.8%.
- In FY 1990, California and its local governments spent \$4.369 billion on corrections -- 3.2% of total direct expenditures, more than the national average state and local figure of 2.5%. California's per capita state and local corrections expenditures were about \$147, more than the national per capita figure of \$99.

California State Constitutional Law Decisions on Criminal Justice Issues

Once the most activist state court in the nation, the California Supreme Court has undergone a complete philosophical shift. The liberal majority that flourished under former Chief Judge Rose Bird has been replaced by conservative jurists led by current Chief Justice Malcolm M. Lucas. A provision of the California Constitution enables the citizens of California to approve or reject the members of the state supreme court after each has served a twelve year term. In 1986, for the first time in history, voters removed three judges from the high court. Due to dissatisfaction with the extremely liberal bent of the court and its record of overturning death sentences, Chief Judge Rose Bird, Judge Cruz Reynoso, and Judge Joseph Grodin lost their bids for re-election. This ouster enabled then Governor George Deukmejian to appoint conservatives to a court which has been dominated by liberals for decades. In 1987, Judge Lucas was appointed Chief Justice, and since then he has sought to overturn and limit some the rulings of the Bird court which used the state constitution to fashion radical and unwarranted protections for defendants. The California Supreme Court is now a fairly conservative court with a strong independent streak.

Since Chief Judge Lucas took over the court in 1987, the California Supreme Court has affirmed over 120 death sentences and reversed only 28. However, the frequency of these reversals is quickly diminishing as the court has reversed only four death sentences since June of 1989. The court has made it clear that it will not overturn death sentences because of a procedural error that, realistically, could not have affected the outcome of the case.

Criminal Justice Reform Initiatives

- In 1982, California voters approved Proposition 8, a broad ranging anti-crime initiative known as the Victim's Bill of Rights. This initiative curtails the exclusion of relevant evidence solely on the basis of state law. In other words, it was a constitutional repeal of California's exclusionary rule. Besides allowing wider use of evidence against criminal defendants, Proposition 8 also mandated stiffer sentences for repeat offenders, gave victims new rights to restitution, and allowed victims to appear at parole and court proceedings.
- On June 5, 1990 Proposition 115 was approved by 57% majority of California voters. Also known as the Crime Victims Justice Reform Act, the purpose of this initiative was to make even more sweeping reforms in the criminal justice system. Speaking of it a year before its approval, Judge Mosk warned that "if [Proposition 115] were to pass, we might as well tear up the Constitution of California, because it will be meaningless." Mosk was referring to one of the most controversial sections of this initiative which would limit criminal defendant's rights to those afforded by the Federal constitution in many areas of the law. Proposition 8 already accomplished this objective to a limited extent, but Proposition 115 required state courts to follow U.S. Supreme Court rulings in applying the rights of equal protection, due process, assistance of counsel, speedy trial, confrontation of witnesses, protection against unreasonable searches, privacy and the rights against self-incrimination, double jeopardy and cruel and

unusual punishment. These are among the rights that have been interpreted by state courts to grant Californians greater protections than similar provisions in the U.S. Constitution.

It was this key provision of the Proposition 115 that the California Supreme Court unanimously struck down on procedural grounds in December of 1990. However, the court upheld other portions of the anti-crime initiative that were aimed at reducing delays in the criminal justice system. For instance, police, instead of victims, can present hearsay testimony in preliminary hearings; defendants indicted by grand juries are denied the right to preliminary hearings; judges can be the principal interrogators of prospective jurors; defense attorneys are required to disclose their evidence to prosecutors before trial. In addition, the measure also expanded the scope of the state's capital punishment law permitting defendants to get the death penalty for a broader range of crimes.

Reversing the Bird Court

- In 1988, the Lucas court overturned a major 1976 ruling written by Judge Mosk which barred the use of an improperly obtained confession to challenge the truthfulness of a defendant who testifies at trial. The California court, citing the 1982 Victims Bill of Rights, said that the use of such a statement, long permitted under federal law, must also be permitted in California.

- Similarly, in 1989, the state supreme court adopted a federal standard making it easier for prosecutors to show a confession was voluntary and thus admissible as evidence in state courts.

- Reversing another decision by the Bird court, the California Supreme Court held in 1988 that trial judges need not warn jurors that eyewitness identifications of suspected criminals may be unreliable and should be viewed "with caution." The court ruled that any such warnings should be made by trial counsel and expert witnesses, not by judges.

- In 1987, the court overturned a controversial 1983 capital punishment decision that barred the death sentence in felony-murder cases unless the jury specifically found that the defendant intended to kill his victims.

- In *Yoshisato v. Superior Court*, decided in June of 1992, the California Supreme Court upheld an expansion of the death penalty under Proposition 115 that allows accomplices to be executed if they played a major role in a crime that led to a killing. Previously, proof of intent to kill was required before accomplices could get the death penalty.

The Future

Today, the seven member California Supreme Court is a more cautious and conservative court. A vastly different court from its predecessor, there is little prospect that the Lucas court will make expansive use of the California Constitution. Instead, experts predict that the state court will increasingly look to the United States Supreme Court for guidance and avoid affording greater protection to individual rights under its own state constitution.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: MCNULTY, PAUL J. & SCHLESINGER, STEVEN R., OPC
To: AG. ODD: NONE
Date Received: 01-19-93 Date Due: NONE Control #: X92123118380
Subject & Date
09-28-92 MEMO PROVIDING BACKGROUND INFORMATION ON THE
PENNSYLVANIA CRIMINAL JUSTICE SYSTEM AND RELEVANT
STATISTICS.

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;FILES	01-19-93	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1S
	INTERIM BY:			DATE:		OPR:
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28 SEPTEMBER 92



U.S. Department of Justice

Office of Policy and Communications

Office of the Director

Washington, D.C. 20530

September 28, 1992

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Paul J. McNulty *PJM*
Steven R. Schlesinger *SR*

SUBJECT: Background on the Pennsylvania Criminal Justice System and Relevant Statistics

Background

Prisons are a big concern in Pennsylvania. Over the past two years, the state has authorized \$1.27 billion for construction of 10,000 new cells by 1995. Five of the seven prisons expected out of this program are currently being built. The press reported in June that Joseph D. Lehman, the state's Commissioner of Corrections, has started a national group that is attempting to stop the increase in incarceration across the nation. Lehman says that each of the new prisons will cost \$800 million over the next 20 years in construction and operation costs. This is in addition to the 263% increase the state showed in prison spending during the 1980's. Lehman believes the drug war has targeted inner-city minorities and if the state continues to incarcerate black males at the current rate "by the year 2024 theoretically all black males in the commonwealth would be incarcerated." Lehman also said that "we have to start treating prison cells as very expensive and limited resources." In early September, the ACLU filed a suit against the state because of their alleged failure to provide proper screening and treatment for inmates with TB. The state has had 21 cases of tuberculosis diagnosed since 1991.

Racial tensions are increasing in the state. In the Philadelphia area, William Taylor, a 15-year-old, was convicted of premeditated murder in the shooting death of a white man in their racially mixed neighborhood. The victim, 34, had had an altercation with some boys, who were annoying the 62-year-old owner of the store. The victim stayed at the store to help the owner when a large number of boys came into the store on the way home from high school mid-terms. A fight ensued, and Taylor pulled out a .22-caliber pump-action rifle he had taken to exams and shot the victim. As the victim lay bleeding on the ground, Taylor again pumped the rifle and fired a second shot into the man. The prosecution successfully proved premeditation based on the ten-to-eleven seconds during which Taylor recocked his weapon. Because Taylor is too

young to be executed, he will be sentenced in November to life in prison with no chance of parole, as state law requires.

What state officials call "copycat gangs" are showing up in the state in both Pittsburgh and Philadelphia. The gangs are not officially organized by the national gangs, but wear their colors and call themselves by similar names. Generally, the gangs are concentrated by neighborhoods. The national organizations are attempting to organize those gangs but without much success. Skin-heads have had more success in the state, growing to a membership of around 300. Hate crimes increased 29% between July 1, 1988 and June 30, 1991. Between July 1, 1990 and June 30, 1991, 64% of the offenders and 62% of the victims of hate crimes were under 21 years old. One high school has eighty students -- one out of 28 members of the student body -- who are currently on probation. Officials are considering a special grant to place two parole officers in the school to deal with these students. In Sillery, Pa., a similar program has helped improve attendance and grades, and has lowered the drop-out rate among juvenile offenders. Absenteeism in the district dropped 15% while grades rose 4%.

How Well Does Pennsylvania Meet the Attorney General's Guidelines for An Effective Criminal Justice System?

Protecting the Community

--Bail may be denied only for persons accused of capital crimes. In determining bail for non-capital offenses, judges may examine mitigating or aggravating factors, community ties, employment status, financial condition and prior history.

--In capital cases, the code dictates aggravating circumstances for first and second degree murder. There is a separate punishment phase to determine whether a death sentence or life in prison will be imposed. An enhanced sentence of 1-2 years must be imposed for the use of a firearm during the commission of some crimes. Also, increased penalties are imposed on repeat offenders.

--Pennsylvania has mandatory sentencing by statute based on a level of crime and an "offense gravity score." Once this score is obtained, a judge uses the statutory table setting forth standard, aggravated, and mitigated ranges. In addition, a prior record will increase the sentence range.

--Pennsylvania has statutorily recognized its "severe problem of overcrowding" in prisons. To this end, it has sought to find alternative sentencing and work camps for selected inmates.

--The salaries of inmates working in public works projects or other employment may be paid out in the following order: reimbursement of the state for boarding the inmate, travel expenses for the inmate, support of the inmate's dependents, obligations reduced to judgment, with the balance to go to the prisoner at discharge.

Juvenile Justice

--In certain circumstances, a juvenile court may waive jurisdiction and transfer a juvenile to adult court. Murder charges must be prosecuted in adult court. Crimes punishable by more than three years in prison may also be prosecuted in adult court.

Trial Procedures

--There is a constitutional right to a speedy trial.

--Transactional immunity is available in some circumstances.

--There is no good faith exception to the exclusionary rule.

--Law enforcement may use wiretaps for enumerated offenses.

--Statutes authorize a criminal history information system.

--Closed circuit testimony and videotaped testimony of children is allowed. The court must ensure the child cannot see or hear the defendant, although the defendant must be allowed to hear the proceedings.

Victims Rights

--The state provides a number of victims' rights and services generally consistent with the guidelines.

PENNSYLVANIA

- Pennsylvania's incarceration rate in 1991 was below the average for all states. Its rate was 192 per 100,000 population, while the average for all states was 287 per 100,000.
- Pennsylvania's 1991 violent crime rate and property crime rate were considerably lower than the 1991 national averages.

	<u>Penn.</u>	<u>National</u>
Violent crime rate (per 100,000)	450.0	758.1
Property crime rate (per 100,000)	3,108.6	5,139.7

- Pennsylvania increased its rate of incarceration from 1980 to 1990 by 169% -- more than the national average of 109%. Its rate of reported violent crime rose by about 18%, while the national rate rose by about 23%. Pennsylvania's overall crime index crime rate dropped 7%, while the national rate dropped 2.2%.
- In 1991, both reported violent crime rates and reported crime index rates increased at slightly above the national average. Pennsylvania's incarceration rate increased at slightly below the national average.

	<u>1980/90</u>	<u>1990/91</u>	<u>1980/91</u>
Incarceration rate - Penn.	+169.1%	+ 4.9%	+182.4%
(all states)	+109.2%	+ 5.5%	+120.8%
Crime index rate - Penn.	- 7.0%	+ 2.4%	- 4.8%
(all states)	- 2.2%	+ 1.3%	- 0.9%
Violent crime rate - Penn.	+ 18.4%	+ 4.4%	+ 23.7%
(all states)	+ 22.7%	+ 3.6%	+ 27.1%

- In FY 1990, Pennsylvania spent \$387.3 million on corrections -- 1.6% of total expenditures, less than the national state average of 2.8%.
- In FY 1990, Pennsylvania and its local governments spent \$770.9 million on corrections -- 1.9% of total direct expenditures, less than the national average state and local figure of 2.5%. Pennsylvania's per capita state and local corrections expenditures were \$65, less than the national per capita figure of \$99.

Pennsylvania State Constitutional Law Decisions on Criminal Justice Issues

The oldest court in the nation, the Pennsylvania Supreme Court has a long tradition of regarding its state constitution as an independent source of constitutional jurisprudence. With increasing frequency, the seven member court has been rejecting precedents set by the United States Supreme Court, preferring instead to undertake an independent analysis of the Pennsylvania Constitution each time a provision is implicated. For example, in 1991 Pennsylvania joined the ranks of other activist states such as New Jersey and New York by becoming the sixth state to refuse to adopt the "good faith" exception to the exclusionary rule established in Supreme Court case *United States v. Leon*. Further, since 1973, the Pennsylvania Supreme Court, notwithstanding federal cases to the contrary, has interpreted its search and seizure provision, Article I, Section 8, to embody a strong notion of privacy, thereby affording far greater protection to individual rights under the Pennsylvania Constitution than is extended under the United States Constitution.

- In 1991, the Pennsylvania Supreme Court in *Commonwealth v. Edmunds* rejected U.S. Supreme Court case *United States v. Leon* and held that under the Pennsylvania Constitution there is no "good faith" exception to the exclusionary rule. Reversing the conviction of a man from whom police seized "a mountain" of marijuana because the search warrant failed to set forth the correct time, the court ruled that the search and seizure provision of the state constitution is "unshakably linked to a right of privacy in this Commonwealth." Writing for the court, Judge Cappy explained that recognizing such an exception would "frustrate" state constitutional guarantees and "emasculate those clear safeguards which have been developed under the Pennsylvania Constitution over the past 200 years." In dissent, Judge McDermott compares the refusal of the majority to recognize a "good faith" exception to standing "mute in the presence of incontrovertible evidence of fire and [letting] the house burn down because the fireman arrived before he was properly called." In essence, he charges the majority with providing "a sanctuary for the lawless elements seeking profit . . . in the growing human misery of addition."

- In *Commonwealth v. Ludwig*, decided a few months after *Edmunds* in 1991, the Pennsylvania Supreme Court reversed the conviction of man who was found guilty of raping and having deviate sexual intercourse with his five year old daughter. Rejecting U.S. Supreme Court case *Maryland v. Craig*, the Pennsylvania court held that the use of closed-circuit television to transmit the child's testimony was a violation of the defendant's state constitutional right to "face to face" confrontation. Relying on Article I, Section 9 of its state constitution which specifically provides for a "face to face" confrontation, the Pennsylvania high court ruled that in interpreting its constitution it is "not bound by the United States Supreme Court's interpretation of similar federal constitutional provisions."

- In 1989, the Pennsylvania Supreme Court in *Commonwealth v. Melilli* rejected U.S. Supreme Court case *Smith v. Maryland* and held that Article I, Section 8 of the Pennsylvania Constitution

was offended by the installation of a pen register device without probable cause. Judge Papadokos, writing for the majority, emphasized that "Article I, Section 8 of the Pennsylvania Constitution, . . . may be employed to guard individual privacy rights against unreasonable searches and seizures more zealously than the federal government does under the Constitution of the United States by serving as an independent source of supplemental rights."

- Declining to follow U.S. Supreme Court case *United States v. Salvucci*, the Pennsylvania Supreme court in *Commonwealth v. Sell* refused to adopt the Supreme Court's abolition of the "automatic standing" rule. Decided in 1983, this case held that "[l]ike the Supreme Court of our sister state, New Jersey, we find the United States Supreme Court's grounds for abandoning the . . . "automatic standing" rule unpersuasive." The state court goes on to assert that "Article I, Section 8 of the Pennsylvania Constitution . . . mandates greater recognition of the need for protection from illegal governmental conduct offensive to the right of privacy." In explaining why the reasoning of *Salvucci* should be adopted, Justice McDermott, in dissent, observes that "absent compelling reason, textual or otherwise, I believe the interests of this nation are best served by maintaining common standards of constitutional law throughout its separate jurisdictions."

- In *Commonwealth v. DeJohn*, decided in 1979, the Pennsylvania Supreme Court first made it clear that "the right to be free from unreasonable searches and seizures contained in Article I, Section 8 of the Pennsylvania Constitution is tied into the implicit right to privacy in this Commonwealth." Refusing to follow *United States v. Miller*, the state court held that citizens **do** have a reasonable expectation of privacy in their bank records and, thus, have standing to challenge the seizure of these records. Describing *Miller* as a "dangerous precedent with great potential for abuse," Judge O'Brien, writing for the majority, reaffirms the notion that "the state has the power to impose standards on searches and seizures higher than those required by the Federal Constitution."

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: McNULTY, PAUL J., DIRECTOR, OPC
To: AG., OAG (LEVIN), ODAG (TERWILLIGER & CAPPUCCIO) ODD: NONE
Date Received: 01-19-93 Date Due: NONE Control #: X92123118396
Subject & Date
UNDATED MEMO PROVIDING A DRAFT REPORT OF JUVENILE JUSTICE
APPROACHES WHICH WAS PUT TOGETHER BY OPD.

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;FILES	02-01-93	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1S
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	Sig. For:	NONE		Date Released:		EHZ

Remarks
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19 JANUARY 93



U.S. Department of Justice

Office of Policy Development

Washington, D.C. 20530

MEMORANDUM

TO: William P. Barr
Attorney General

George Terwilliger
Acting Deputy Attorney General

Dan Levin
Chief of Staff to the Attorney General

Paul Cappuccio
Associate Deputy Attorney General

FROM: Paul J. McNulty *PM*
Director
Office of Policy and Communications

SUBJECT: Draft: Juvenile Justice Approaches

Director's Note: Pursuant to your interest in a comprehensive statement regarding juvenile crime, the Office of Policy Development has put together this report. Under Steve Schlesinger's guidance, Bob Samuels, Ed Himmelfarb, Greg Butler and David Karp pulled this information together over the past weekend.

I) Defining the Problem

A) General

1) Volume of violence:

a) Over a four-month period in Detroit . . . [in 1987], 102 youngsters age sixteen or under were shot, nearly all of them by other children. There was so much violence in the public schools that the whole system had to be shut down for two days. . . . (Zinsmeister)

b) From 1983 to 1988 the number of minors arrested for murder increased by a startling 31 percent (to 1,765), even though the number of people age twelve to seventeen actually decreased by eight percent over those five years. The jump in murder arrests of children age fourteen or younger (up 28 percent, to a total of 201

over that same period) is especially troubling. . . . (Zinsmeister)

JJP Study
c) The number of juveniles held for violent personal offenses reversed its decline and showed an increase for the first time since 1983. Between 1987 and 1989 there was an 8-percent increase in the number of juveniles held for committing offenses against persons. (Allen-Hagen)

d) Homicide is now the leading cause of death among children in many American inner cities, and about half the assailants are other youths. . . . (Zinsmeister)

e) "Homicide is currently the leading cause of death in black males 15 to 44, and the leading cause of death in black males 15 to 34. If you consider that there were less than 6,000 black men killed during the whole 12 years of the Vietnam war, you will quickly realize that there have been several years in this country in which there were more black men killed in this country by other black men than the whole 12 years of the Vietnam war." (Bell)

2) The hardcore element (7%) causes most of the problem: A study by criminologist Marvin Wolfgang followed males born in 1945 and 1958 and raised in Philadelphia from ages 10 to 18. Wolfgang found an astonishingly small number of offenders committed most crime in the group. A mere seven percent collected five or more arrests by age 18 and were responsible for two-thirds of all the violent crime committed by the group, three-fourths of the rapes and robberies and virtually all the murders. Moreover, if not locked up, these "dirty seven percenters" went on committing felonies, and got away with a dozen crimes for every arrest. (Methvin)

3) Remorselessness: . . . In the most troubling cases we are seeing a pattern of extreme remorselessness. The Central Park "wilding" attack is an infamous example; those accused of raping and nearly killing a young jogger in 1989 said afterward that "it was fun." In an earlier case in Washington, D.C., a group of youths robbed, raped, and brutally murdered a middle-aged mother named Catherine Fuller while singing and joking. . . . (Zinsmeister)

4) Statistics from the FBI's Uniform Crime Reports for 1990, indicate:

- Juveniles under 18 were 16.2% of all arrests for violent crimes, 31.9% of all arrests for property crimes, and 28.1% of total arrests for "crime index" crimes.
- Juveniles under 15 represented 4.6% of all arrests for

violent crimes, 13.4% of all arrests for property crimes, and 11.3% of total arrests for "crime index" crimes.

5) A 1987 BJS survey of juveniles (under 18) and young adults (18 and older) confined in long-term, state-operated juvenile institutions, indicated:

12.4% were 14 or younger; 60.5% were between 15 and 17 years old; and 27.2% were 18 or older.

39.3% of the juveniles were held for a violent offense; 45.6% were held for a property offense; 5.6% were held for a drug offense; and 7.2% were held for a public-order offense. Only about 2% were held for a "status offense" such as truancy, running away, or incorrigibility.

Almost 43% of the juveniles had been arrested more than 5 times, and over 20% had been arrested more than 10 times.

82.2% of the juveniles reported having previously been on probation; 58.5% reported having previously been committed at least once to a correctional institution. Only 3% of juveniles had never been on probation, never been in a correctional institution, and never committed a violent offense.

Most of the victims of the juveniles' and young adults' **violent** crimes were male (58.1%), white (61.6%), and under 21 (54.2%). More than 40% were strangers to the offender, and about 12% were relatives.

About 70% of the juveniles and young adults did not live with both parents while growing up, and about 54% reported having lived primarily in a single-parent family.

6) Problems in Schools:

One survey in Boston, Massachusetts reported that over one quarter of high school students (37% of boys, 17% of girls) carried guns or knives, at least on occasion. (Spivak)

In Chicago schools, filing cabinets are placed against windows to protect students from stray bullets. (Jones)

B) Problems arising from lenient treatment of juveniles:

1) Kids are valuable to gangs. Because of their age, they can shoot someone or run drugs or pull a stick-up and get a light rap. . . . (Royko)

2) . . . Knowing that a conviction in juvenile court will in all probability result in little or no punishment, the benefits derived from involvement in the drug world outweigh the risks. In fact, juveniles are being recruited by older individuals to sell drugs where the risk of apprehension is the greatest, knowing the consequences following arrest are not substantial. (Walton)

- C) Need for preventive detention for juvenile offenders. Quotation from a principal: "If he comes around and I call the police, what am I going to charge him with -- trespassing? Hell, he [has already been charged with having] shot a kid in the face and he's on the streets. Are they going to put him away for trespassing?" (Royko)

- D) Gangs

. . . . [K]ids are dropping out to stay in gangs full time, and . . . teaching takes place in a war-tense atmosphere. (Jones)

. . . The gang problems are not limited to big-city school systems. A migration of L.A. gangs to midsize cities like Portland, Ore., Albuquerque, Phoenix and Dallas has made gang activity a problem for public schools nationwide. (Jones)

Gurule's office estimates more than 300 cities with a population of 10,000 or more have gangs. (Jones)

II) Options for General Approaches to Dealing with Juvenile Justice Issues

- A) General Themes

1) Overall, stress action now as opposed to interminable study of a problem that has been well documented for years.

2) Stress the importance of taking a comprehensive approach--from tough law enforcement to more counseling. Tie to Weed & Seed program.

- B) Options for Weeding

1) Focus on the hardcore 7%, with early identification, and more emphasis on incapacitation than rehabilitation:

A Justice Department program begun in 1983 shows we can curb crime sharply by getting . . . [chronic] offenders off the street at an early age. Twenty cities were persuaded to install Serious Habitual Offender (SHO) programs that focus on youngsters who are habitual offenders before their 18th birthday. Such offenders get

priority attention from probation authorities, and if they are arrested anew, prosecutors seek to put them away. After a concentrated effort to get SHOs off the street in Oxnard, Calif., violent crimes plummeted 38 percent in 1987. In 1989 Oxnard had 30 SHOs behind bars, and its 133,00 citizens experienced the lowest crime rate in a decade. Murders were down 65 percent, robberies 41 percent, burglaries, 29 percent. (Methvin)

2) Toughen Law Enforcement/Incapacitation/Deterrence to result in swift, certain, and appropriate punishments.

3) Reform the juvenile justice records rules that interfere with the proper disposition of individual cases and with evaluation of the system.

4) Provide discretion/exemptions which allow treating a juvenile offenders as an adult, based either on the extent of their prior juvenile records or on the seriousness of their offense.

5) Re-evaluate the Department's position on federal capital punishment for persons under the age of 18 at the time of the offense.

6) Eliminate any incentives for recruiting and encouraging children into criminal enterprises.

7) School safety initiatives (including technical assistance for besieged schools).

8) Strengthen laws to attack criminal precursor activities (drugs and alcohol possession and distribution).

C) Options for Seeding

1) Deal with the family aspect of juvenile delinquency

2) Focus on Schools

a) Training for educators

b) Programs to prevent delinquency

c) Establish alternative schools for delinquents

3) Funding of other community programs/tie-in with Weed & Seed.

III) **Specific Options for DOJ Initiatives for Federal, State, and Local Jurisdictions (including Model Legislation for States and Localities**

A) Weeding

- 1) Preventive detention for serious juvenile crimes.
- 2) Expand witness protection to protect victims and witnesses from juvenile predators.
- 3) Establish a presumption that juveniles accused of heinous crimes will be tried as adults. For example, in Massachusetts, juveniles accused of murder are tried as adults unless a judge decides to keep the case in juvenile court. The law extends that presumption to juveniles accused of other serious crimes, such as manslaughter and rape. (Hanafin)

Most (if not all) states have provision for adult prosecution in some cases of offenders who are below the general juvenile age. This can basically be accomplished in five ways:

(a) Discretionary waiver. The juvenile court may have authority to authorize adult prosecution of certain juvenile offenders. This may combine some fairly definite prerequisites for adult prosecution in terms of the juvenile's age, the nature of the offense charged, and/or the juvenile's prior record, with judgmental criteria -- "the interests of the child and the community," "the amenability of the child to rehabilitation," etc.

(b) Presumptive waiver. This is similar to the preceding item, but with an affirmative presumption in favor of waiver for adult prosecution based on the juvenile's age, the nature of the offense, and/or prior record.

(c) Mandatory waiver. The juvenile court may be required to transfer certain serious juvenile offenders for adult prosecution, based on the same sorts of factors (age, offense, record).

(d) Original criminal court jurisdiction. Instead of having proceedings start out in juvenile court, a state's law may provide that prosecutions of juveniles for certain serious crimes (perhaps in conjunction with specified age and/or prior record criteria) are to be commenced in the regular criminal courts. This does not necessarily mean that an adult prosecution will ensue, however, since the criminal court may have authority to transfer such cases back to juvenile court.

(e) Original and exclusive criminal court jurisdiction. Like the preceding option, but with no discretion to transfer to juvenile court, ensuring an adult prosecution throughout.

Utilization of these approaches, individually or in combination, can broaden the range of juveniles who are subject to adult prosecution. The presumptive and mandatory approaches are more useful to prosecutors, and more protective of the public, than the discretionary approach.

4) Lowering jurisdictional age. Under current law, the treatment of juvenile offenders is primarily determined by the jurisdictional age for the juvenile courts. Offenders below this age are normally not criminally liable, and are handled instead in juvenile proceedings. In most states, the juvenile age is somewhere between 16 and 18. Setting the general juvenile age at a lower figure broadens the range of juveniles who are subject to adult criminal prosecution.

5) Time of offense versus time of proceeding. If a person commits an offense while below the juvenile age, but is not caught or prosecuted until he is above the juvenile age, should he be proceeded against as a juvenile or as an adult? States have given different answers to this question. Making age at the time of the proceeding dispositive broadens the range of juvenile offenses that are subject to adult prosecution.

6) Increasing duration of sanctions. How long should juvenile sanctions last? For example, if the juvenile age is 18 in a particular state, and juvenile detention cannot continue beyond the age of 21, this gives a maximum juvenile sentence of a few years for older juvenile offenders, even for the most serious crimes. Increasing the permitted duration of juvenile sanctions reduces the practical difference between adult and juvenile prosecution, and affords more effective means of protecting the public even in the context of juvenile adjudications.

7) Eliminating unnecessary impediments to investigation and conviction in juvenile proceedings. There are a number of procedural rules that pertain specifically to criminal prosecution, and do not generally apply in civil proceedings. These include, for example, the Miranda procedures for pre-trial questioning, the criminal jury right, the requirement of proof beyond a reasonable doubt at trial, the prohibition of summoning the defendant to the stand and questioning him unless he volunteers to testify, and the prohibition of drawing adverse inferences from the defendant's failure to testify. Given the non-criminal character of juvenile proceedings, it may be worth examining to what extent features of criminal procedure that are not required for fairness to the defendant have improperly been imported into juvenile cases, and whether reforms can be undertaken in this area.

8) Federal Cases. Reforms that may be considered in federal cases include broadening and strengthening the bases of federal jurisdiction, and other measures parallel to those discussed above for state juvenile systems (lowering jurisdictional age, broadened adult prosecution, etc.). We have some provisions to broaden federal jurisdiction and adult prosecution in our pending legislation; more extensive reforms in these areas have been drafted as part of the "Crime Bill II" initiative.

9) Federal criminal street gangs offense. Also in the "Crime Bill II" initiative, we have been developing a new federal crime covering serious offenses committed as part of the activities of a criminal street gang. The practical application of this offense would be largely (though not exclusively) to youthful offenders.

10) Model Legislation/Litigation on Gang Activity. The San Fernando ordinance which prohibits any active and knowing member of a criminal street gang from willfully entering Las Palmas Park [is a good model] . . . (Fein); consider filing amicus brief when such legislation is attacked, as by ACLU suit in San Fernando.

11) Broadened retention and availability of juvenile records.

a) The violent crime initiative announced by the President in 1989 includes encouraging the states to retain and report records for all serious juvenile offenses. We have two pending proposals which implement this initiative.

i) With respect to federal cases, a provision of the President's violent crime bill would amend 18 U.S.C. 5038 -- which now does not provide for retention and availability of juvenile records until a second conviction for a serious violent or drug crime -- to provide for retention and availability of such records on a first conviction for such a crime.

ii) With respect to state cases, we have a pending rule change which would allow the FBI to receive juvenile records from the states and enter them in the national criminal records system. We need to promulgate this rule. We also need to encourage the states to amend (where necessary) their own laws regarding confidentiality of juvenile records to provide adequate retention and availability of such records for serious juvenile offenses through state repositories, and forwarding of such records to the FBI for inclusion in the national criminal

records system.

b) Other ideas regarding records include:

i) Facilitate overall system evaluation and reform by making public summary information on the number of cases, types of offenses, and dispositions of defendants and their records.

ii) Give school administrators access to juvenile crime records.

12) Broadened treatment of juvenile records as predicate offenses. Under existing law, juvenile offenses are sometimes not treated as predicate offenses for other purposes where they should be. For example, certain violent juvenile offenses now count as predicate offenses for armed career criminal purposes under 18 U.S.C. 924(e), but serious juvenile drug crimes do not. A provision of the President's violent crime bill would correct this omission. As a second example, juvenile convictions are sometimes admissible to impeach the testimony of non-defendant witnesses under F.R.E. 609(d), but never admissible to impeach the testimony of a testifying defendant. This limitation is unjustified.

13) Screening. Set up screening programs in juvenile justice programs--federal, state, and local--to identify the hardcore 7% for more emphasis on incapacitation and less on rehabilitation; more rehabilitation for the others.

14) Sentencing. Adopt the approach of the new [Massachusetts] sentencing guidelines, which require juveniles convicted of first-degree murder to serve an additional 15 to 20 years after their 21st birthday, and those found guilty of second-degree murder to serve an extra 10 to 15 years. (Hanafin). Toughen punishments for the hardcore types. (Methvin)

15) Incarceration

a) Bootcamps. The Office of Juvenile Justice and Delinquency Prevention recently awarded grants to fund three experimental juvenile boot camps, which will be evaluated to determine whether non-violent juvenile offenders at high risk of continued involvement in crime can profit from a highly structured environment designed to teach self-control and accountability. Continue and ensure that educational and vocational elements are included.

b) Separation of juveniles. Continue OJJDP programs to ensure that non-violent criminal children are separated

from adult convicts and violent criminal children.

16) Post-Release Programs. Gradually release juveniles back into society. The possibilities include half-way houses where ex-offenders live while engaging in education or employment on the outside, ex-offender cooperatives that run businesses, or work release followed by an outward bound type program. Ensure that follow-up programs include educational/vocational elements.

17) Target Guns. Review laws relating to firearms sales and increase penalties for those who illegally provide firearms and ammunition to juveniles. Consider requirement that all long guns (rifles and shotguns) sold to people under the age of 18 have specific parental approval. No ammunition sales to juveniles.

B) Seeding

1) Encourage/fund targeted programs for schools.

a) Training for educators: In Los Angeles, where the FBI estimates about 95,000 youths are affiliated with more than 800 gangs, the County Office of Education launched the first Gang School for Educators two weeks ago. Teachers and principals see films, attend lectures, meet with ex-gang members. (Jones)

b) Provide parenting classes in high schools. (Hirschi)

c) Encourage and support boarding schools--especially for fatherless boys. (Wilson)

d) Address values issues (individual responsibility, respect for self and others' rights), starting with elementary school curricula.

e) Promote school choice to give those terrorized by juvenile thugs the opportunity to choose private schools or public schools outside their communities, thereby giving schools with problems an incentive to get tough.

f) For delinquents: Establish alternative schools.

i) In L.A., 21 alternative schools have been created to educate former gang members. (Jones)

ii) In Boston, the Barron Center has treated over 1,500 violent kids with a recidivism rate of about 5 percent. (CRA)

g) Counseling: . . . The Justice Department has

responded with a three-year, \$8 million program to counsel inner-city youths who exhibit behavior associated with becoming members of gangs. The program will be in seven cities next year. (Jones)

2) Funding of other community programs/tie-in with Weed & Seed. OJJDP already funds a wide range of programs, including Boys and Girls Clubs of America programs targeting high-risk youth in public housing projects. New projects could include:

a) Create an Attorney General's Role Models program which would bring people who have escaped various neighborhoods, back into the community to talk to kids and gangs etc.

b) Encourage increased cooperation between police and school officials/private security.

3) Deal with Family Responsibility Aspect of the Problem

a) Strengthen/extend laws which hold parents responsible for restitution for crimes committed by their children; or, where, appropriate, criminally responsible.

b) Tougher penalties for people who contribute to juvenile delinquency by harming kids:

-increase penalties for child abuse etc.

-increase penalties for selling alcohol to minors (might be state jurisdiction)

-increase accomplice liability when a minor commits a crimes at the direction of an adult.

-increase penalties for adults who solicit children to commit crimes

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DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: McNULTY, PAUL J. & SCHLESINGER, STEVEN R., OPC
To: AG. ODD: NONE
Date Received: 01-19-93 Date Due: NONE Control #: X92123118397
Subject & Date
UNDATED MEMO PROVIDING BACKGROUND ON THE SOUTHEAST REGION
PRISONS AND CAPITAL PUNISHMENT.

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;FILES	02-01-93	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1S
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	Sig. For:	NONE		Date Released:		EHZ

Remarks

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19 JANUARY 93



U.S. Department of Justice

Office of Policy and Communications

Office of the Director

Washington, D.C. 20530

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Paul J. McNulty *PM*
Steven R. Schlesinger *SPS*

SUBJECT: Background on the Southeast Region Prisons and Capital Punishment

Prisons

The prison systems in most southeastern jurisdictions have reached or exceeded capacity and are under court order to reduce overcrowding. In 1990, the Supreme Court declined to review a \$30 million fine imposed against Puerto Rico because the Commonwealth was not moving quickly enough on prison overcrowding. Court orders exist for local or state correctional facilities, or in many cases both, in the following jurisdictions:

Alabama	Arkansas	Florida	Georgia
Kentucky	Louisiana	North Carolina	
Puerto Rico	South Carolina	Tennessee	Virginia.

The shortage of prison space has caused the states to adopt a variety of methods to reduce prison populations. Louisiana has developed a "boot camp" for prisoners and has had some prisoners sheltered in tents. Alternative sentencing has been used to help alleviate the problem.

Early release of prisoners is also popular in the region. Since January 1, 1992, Florida has given persons convicted of certain crimes over 2,300 days, or about six years, of Control Release time to provide more prison space. A South Carolina sheriff has commented that prison overcrowding has effectively legalized misdemeanors. The average two-year sentence is served in only 12 days.

Capital Punishment

Almost all the Southeast jurisdictions have capital punishment in place. The exceptions are West Virginia, Puerto Rico, and the Virgin Islands. Florida has the second highest number of death row inmates with 314 prisoners awaiting execution. There were only 8 prisoners executed in 1991 of the total of 906 on Death Row in these states at the end of 1990. Four of the states executed one prisoner, while Florida and Virginia executed two each. All states

allowing capital punishment have people awaiting execution.

Increases in the number of Death Row inmates are likely to continue in light of interference from the courts. Both state and federal courts are adept at finding reasons to overturn death penalty sentences. In a Georgia case, the Georgia Supreme Court overturned a death penalty conviction because the sentencing jury did not specifically state that the murder was "outrageously or wantonly vile, horrible or inhuman." The victim was shot twice in the head at point blank range for attempting to escape her captor. The prosecutor said previous opinions had not required that "magic words" be included to justify a death penalty for an inhuman murder like this one.

The U.S. Supreme Court has overturned several death penalty sentences because the jury charge concerning mitigating and aggravating factors was vague or overbroad. In one case, the Court conceded that a Florida judge had not used improper factors in awarding the death penalty and that the jury's role was merely advisory, but held nevertheless that "neither actor must be permitted to weigh invalid aggravating circumstances." In Florida, judges have imposed the death penalty 130 times when the jury has recommended life imprisonment.

As you know, while the region generally supports capital punishment, editorial commentary and letters to the editor on the nomination of Ed Carnes have focused on his vigorous defense of the law in capital cases.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: McNULTY, PAUL J. & SCHLESINGER, PAUL J., OPC
To: AG. ODD: NONE
Date Received: 01-19-93 Date Due: NONE Control #: X92123118398
Subject & Date
UNDATED MEMO PROVIDING BACKGROUND ON THE KANSAS CRIMINAL
JUSTICE SYSTEM AND RELEVANT STATISTICS.

	Referred To:	Date:	Referred To:	Date:	
(1)	OAG;FILES	02-01-93	(5)		W/IN:
(2)			(6)		
(3)			(7)		PRTY:
(4)			(8)		1S
	INTERIM BY:		DATE:		OPR:
	Sig. For: NONE		Date Released:		EHZ

Remarks
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19
January 93



U.S. Department of Justice

Office of Policy and Communications

Office of the Director

Washington, D.C. 20530

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Paul J. McNulty *BM*
Steven R. Schlesinger *SRS*

SUBJECT: Background on the Kansas Criminal Justice System
and Relevant Statistics

Background

Despite a small decline in number of prisoners reported from 1988 to 1990, Kansas has been under court order because of prison and jail overcrowding. In 1991, the state completed a 640-bed maximum security prison -- the first such facility it has built in 100 years. Local jails are also operating at or above capacity. The Kansas City jail is so overcrowded that the average inmate released serves only 38% of his sentence. As you know, the Federal prison in Leavenworth had an outbreak of violence last week leaving one of the three hundred prisoners involved dead. Three others were seriously wounded. Press reports stated that the disturbance was due to regional violence between D.C. and Los Angeles gang members.

The state hopes to control prison populations by changing the sentencing structure to concentrate on violent crime. In May, the Governor approved a new sentencing structure that was recommended by the Sentencing Commission created in 1989 to study the criminal justice system. The new structure creates a grid with a crime severity scale on one axis and criminal history on the other axis. A special drug crime grid also was approved. One goal is to create equity by removing most judicial discretion. The grids provide fixed sentences within limited ranges and limit the use of mitigating and aggravating factors. To help keep violent criminals in prison longer, the plan also limits good time to 20% of the total sentence and eliminates most parole hearings.

Supporters say the new sentencing structure would eliminate the racial, economic, and geographic disparity that exists in the present system. Critics, however, say the legislature, by emphasizing community placement for non-violent crime has merely shifted the financial burden to the local governments without providing resources. Other critics argue that the lessened emphasis on property crimes will "unleash a statewide crime wave." The structure is "dynamic" in the sense that the Sentencing Commission must recommend modifications to the sentencing grids if the prison sys-

tem reaches 90% of capacity.

The state will be voting on a constitutional amendment to protect the rights of victims this November. The supporters of the proposal say that even though Kansas has statutory protection of victim's rights, the laws have no enforcement mechanisms and they need to be raised to the level of constitutional protections.

How Well Does Kansas Meet the Attorney General's Guidelines for An Effective Criminal Justice System?

PROTECTING THE COMMUNITY

--The Kansas Constitution permits denial of bail for capital offenses, but there are no statutory capital offenses. A magistrate may impose conditions on release, such as requiring release to a particular person or location, or requiring return to custody during certain hours.

--Increased sentences are available for repeat and gun offenders.

--Prisoners are not required to work. Prisoner's salaries are used to offset the state's cost of incarceration. Five percent of inmate salaries are contributed to a victim's fund.

--Kansas has a central criminal justice information system.

--Law enforcement may obtain pen registers and wiretaps.

--Capital punishment is not available for first degree murder, which instead is punishable by life imprisonment.

JUVENILE JUSTICE

--There is no automatic transfer of juveniles to adult court. However, a juvenile court has discretion to transfer a juvenile who is sixteen-years-old or older.

--Juvenile records are available under the new sentencing guidelines for use in determining criminal history.

TRIAL PROCEDURES

--There is a good faith exception to the exclusionary rule recognized by the Supreme Court of Kansas. Statutorily, no warrant may be quashed or evidence suppressed because of technical irregularities not affecting the accused's rights.

--Only transactional immunity is available for witnesses.

--A shield law exists for rape and sexual crimes involving children. The judge may, after an in camera hearing, allow prior sexual activity as evidence. If prosecutors offer past history, cross examination is limited to that.

--A child's (under 13) testimony may be given by closed circuit out of the presence of the defendant.

VICTIMS RIGHTS

--The state has a statutory victim's "Bill of Rights." The State's statute meets most goals of the guidelines.

KANSAS

- Kansas' incarceration rate in 1990 was below the average for all states. Its rate was 227 per 100,000 population, while the average for all states was 272 per 100,000.
- Kansas' 1990 violent crime rate and property crime rate were **lower** than the 1990 national average.

	<u>Kansas</u>	<u>National</u>
Violent crime rate (per 100,000)	447.7	731.8
Property crime rate (per 100,000)	4,745.4	5,088.5

- Kansas increased its rate of incarceration from **1980 to 1989** by 110% -- above than the national average of 96%. Its rate of reported violent crime rose by about 3%, below the increase in the national rate, which rose by 11%. Kansas' overall crime index crime rate fell by over 7%, while the national rate dropped 3.5%.
- Kansas fell behind the national average increase in incarceration rates since 1980 with a well-below-average one-year increase in 1990. Kansas continued to have a greater-than-average **decrease** in crime index rates since 1980, despite a one-year above-average increase in 1990. The increase in Kansas' violent crime rate from 1980 to 1990 was below the national increase of 26%.

	<u>1980/89</u>	<u>1989/90</u>	<u>1980/90</u>
Incarceration rate - Kan.	+110.4%	+ 1.8%	+114.2%
(all states)	+ 96.2%	+ 8.5%	+125.4%
Crime index rate - Kan.	- 7.4%	+ 4.2%	- 3.5%
(all states)	- 3.5%	+ 1.4%	- 1.3%
Violent crime rate - Kan.	+ 3.0%	+ 11.7%	+ 15.0%
(all states)	+ 11.1%	+ 10.4%	+ 26.0%

- In FY 1990, Kansas spent \$176.3 million on corrections -- 3.7% of total state expenditures, more than the national state average of 2.8%.
- In FY 1990, Kansas and its local governments spent \$210.0 million on corrections -- 2.5% of total direct expenditures, equal to the national average state and local figure of 2.5%.
← Kansas' per capita state and local corrections expenditures were about \$85, less than the national per capita figure of \$99.

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DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: SCHLESINGER, STEVEN R., DIRECTOR, OPD
To: DAG, ASG AND OAG (SCALIA) ODD: NONE
Date Received: 04-27-92 Date Due: NONE Control #: X92042706407
Subject & Date

04-24-92 MEMO PROVIDING A DRAFT RESPONSE TO THE PRESIDENT'S
MEMORANDUM WHICH REQUESTED A REVIEW OF DOJ'S EXISTING
REGULATIONS TO REDUCE UNNECESSARY BURDENS OR RESTRICTIONS
IN COMPLYING WITH REGULATORY REQUIREMENTS. THEY NEED TO
SUBMIT THE FINAL REPORT SOMETIME DURING THE WEEK OF
APRIL 27, 1992, AND REQUESTS ANY COMMENTS, EDITE, OR
SUGGESTIONS.

SEE E.S. 92012901471 - CONTROL SHEET ATTACHED.

	Referred To:	Date:	Referred To:	Date:	
(1)	DAG;TERWILLIGE	04-27-92	(5)		W/IN:
(2)			(6)		
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	INTERIM BY:		DATE:		OPR:
	Sig. For:	NONE	Date Released:		BJM

Remarks

INFO CC: ATR

(1) FOR APPROPRIATE HANDLING.

SEE E.S. 92081011920

Other Remarks:

OLA CONTACT:

JRH 4/27/92

FILE: OFFICE OF POLICY DEVELOPMENT

CROSS REFERENCES:

1. PRESIDENTIAL/Correspondence
2. REGULATIONS

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

24 April 92



U.S. Department of Justice

Office of Policy and Communications

Office of Policy Development

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DEPARTMENT OF JUSTICE

Washington, D.C. 20530

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April 24, 1992

MEMORANDUM

EXECUTIVE SECRETARIAT

TO: George J. Terwilliger, III
Deputy Attorney General

Wayne Budd
Associate Attorney General

Eugene Scalia
Assistant to the Attorney General

FROM: Steven R. Schlesinger *SPS*
Director
Office of Policy Development

SUBJECT: Department's Draft Response to the President's
Memorandum Requesting Review of Existing Regulations

At Mark Gidley's request, I am circulating a draft of the Department's report to the White House, evaluating the Department's existing regulations in response to the President's memorandum of January 28, 1992. This draft, which was prepared by OPD in conjunction with the Antitrust Division, is based upon submissions from all of the components. Based upon a meeting Jim Rill and I had earlier this week with White House staff, this draft should be generally satisfactory for their purposes.

We will need to submit the final report sometime during the week of April 27. If you have any comments, edits, or suggestions, please provide them either to Mark Gidley (514-2404), or to Kevin Jones of my office (514-4604).

FIRST DRAFT April 20, 1992

DEPARTMENT OF JUSTICE REGULATORY REVIEW EFFORTS
IN RESPONSE TO THE PRESIDENT'S MEMORANDUM
OF JANUARY 28, 1992

The Department of Justice is committed to the full implementation of the principles set forth in the President's memorandum of January 28, 1992. Within the Department of Justice, a number of efforts have been undertaken in response to the President's memorandum. Though the Department has very few substantive regulations in comparison with other Departments, we have been able to identify several areas where improvements can be made to reduce unnecessary burdens or restrictions, and to assist affected entities in understanding and complying with regulatory requirements.

In addition, under the leadership of James F. Rill, Assistant Attorney General for the Antitrust Division, the Department has participated actively in the inter-agency review process in order to reduce or eliminate unnecessary burdens in the transportation field. The Department through its Antitrust Division participates actively in numerous rulemaking proceedings through its Competition Advocacy program.

Overview of Regulations by the Department of Justice

By far, the bulk of the Department's responsibilities relate to law enforcement activities and the representation of the interests of the United States in litigation. In that connection, the Department has worked aggressively to implement Executive Order No. 12778, Civil Justice Reform, both within the Department and throughout the government.

Although the Department of Justice comprises a wide variety of components and responsibilities, it is not a major initiator of regulatory requirements. Many components of the Department have no regulations of their own, other than organizational and procedural regulations governing the internal actions of that component. This is not surprising, given the Department's primary mission in law enforcement, investigation and prosecution in criminal cases, and its role as the government's lawyer in civil cases. Very few of the Department's own regulations can be classified as "major rules" under Executive Order No. 12291. Accordingly, although we identify positive changes in the Department's regulations, in many cases those changes will not necessarily have a major dollar impact on the economy.

The major regulatory component of the Department is the Immigration and Naturalization Service (INS), which administers regulations governing the admission of legal immigrants and

temporary visitors, apprehension and deportation of illegal aliens, employment verification and employer sanctions under the Immigration Reform and Control Act of 1986, asylum, and naturalization of citizens. Due to legislative activity, INS has been especially active the last 16 months in the regulatory arena. Enactment of the Immigration Act of 1990 has required INS to revise substantial portions of its regulations relating to legal immigration, temporary visitors, and criminal aliens. Although a large number of regulations have already been issued under the 1990 Act, many other proposed or final rules are still pending. As discussed below, the Department has strengthened its procedures to scrutinize new immigration regulations in response to the President's initiative, both within INS's decision-making processes and from a broader Department of Justice perspective.

The Civil Rights Division is the only other component of the Department of Justice to have published regulatory requirements that have a substantial impact upon the economy. Last year, after a long and careful process of deliberation and review within the Administration, the Department published the final regulations to implement Titles II and III of the Americans with Disabilities Act (ADA).

Among the rest of the Department's components, the Criminal Division has regulations implementing the Foreign Agents Registration Act, the Foreign Corrupt Practices Act, and the child pornography laws, and the Civil Division has regulations under the Federal Tort Claims Act and the Radiation Exposure Compensation Act. The Bureau of Prisons (BOP) has a variety of regulations governing prisoner conduct and conditions. The Office of Justice Programs has regulations governing the administration of its various grant programs to state and local law enforcement agencies and other grantees. The Drug Enforcement Administration (DEA) has regulations governing the distribution and marketing of legal controlled substances. The Justice Management Division (JMD) has various personnel and acquisition regulations.

I. DESCRIPTION OF ACTIONS TAKEN PURSUANT TO THE 90-DAY REVIEW

A. Modifications to Existing and Planned Regulations

1. Joint Merger Guidelines. On April 2, 1992, the Department of Justice and the Federal Trade Commission issued the 1992 Horizontal Merger Guidelines. The 1992 Guidelines should materially enhance competition and eliminate unnecessary business uncertainty for three reasons:

- These Guidelines are the first to be issued jointly with the Federal Trade Commission. Both agencies now will apply the same basic analysis to mergers, so that results should not differ depending on which agency takes action

in a particular case. Businesses can use this to their advantage by planning their actions with a new sense of predictability and consistency.

- These Guidelines provide an improved and more complete picture of the merger analysis to be applied by the agencies, so that businesses can more accurately plan their activities to comply with agency standards.
- Substantively, the analysis set forth in the 1992 Guidelines reflects the advances in economic and legal thinking since the issuance of the 1984 Guidelines, and represents the next logical step in the evolution of the principles set forth in the 1984 Guidelines. Decisions based on the 1992 Guidelines will be made with the benefit of this improved analysis, which accounts more accurately for real market conditions and economies.

2. Asset Forfeiture. Federal forfeiture statutes authorize the Attorney General (for agencies within the Department) to administratively "pardon" a person whose property has been forfeited to avoid harshness. This administrative process allows persons affected by forfeitures to petition for "remission or mitigation of forfeiture." Currently, a single set of regulations governs petitions filed with the Department in judicial forfeiture cases, and with the FBI and DEA in administrative forfeiture cases. However, four separate petition regulations have been established for administrative forfeiture cases involving the Immigration and Naturalization Service, the Postal Inspection Service, the Bureau of Alcohol, Tobacco and Firearms, and the U.S. Customs Service. Moreover, the Internal Revenue Service and the Secret Service have begun developing petition regulations to govern their seizures and administrative forfeitures. This proliferation of petition regulations is confusing for both citizens and private attorneys and creates the potential that similarly situated persons may receive inconsistent treatment.

Accordingly, the Department of Justice has initiated a project to develop a comprehensive set of petition regulations to govern all federal forfeitures. This interagency initiative, under the direction of the Executive Office for Asset Forfeiture, will produce a clear, understandable and accessible body of regulations for use by the public and all federal agencies. The regulations will address all forms of petitions for remission or mitigation and will enhance predictability of result in the petition process thereby providing clarity and certainty to the regulated community. The Department will circulate a draft for internal review and anticipates having a notice of proposed rulemaking ready for action by the end of May 1992.

3. Inmate Grievance Procedures. The Department has drafted a proposed rule clarifying the language of the regulations govern-

ing certification of state grievance procedures under the Civil Rights of Institutionalized Persons Act, Pub. L. 96-247, 94 Stat. 349, codified at 42 U.S.C. § 1997, in order to reduce federal burdens and encourage state initiatives. The current rule, 28 C.F.R. Part 40, establishes requirements that have been criticized as "go[ing] beyond the strict language of the statute,"¹ and in particular has been perceived as requiring that inmates sit on panels adjudicating other inmates' grievances. This criticism is aimed chiefly at the requirement that states permit inmates to participate at a minimum "in an advisory capacity in the disposition of grievances challenging general policy and practices," and in certain cases "opportunity for such participation shall occur before the initial adjudication of the grievance." 28 C.F.R. § 40.7(b). In practice, relatively few states and localities have availed themselves of inmate grievance procedures under this statute. This is a lost opportunity because as many as 50% of prisoner claims can be resolved without the need for federal court intervention.

Because effective administrative resolution of state inmate grievances is in the best interest of prisoners, state and local authorities, and the federal courts, the Department of Justice is encouraging the development of fair and effective administrative procedures by revising the existing rule to eliminate unnecessary language which may have been perceived by State and local authorities as unhelpful.

The proposed rule change is consistent with the Vice President's civil justice reform initiative and dovetails with the Vice President's Access to Justice Act, which proposes a statutory change to CRIPA. The proposed rule is an effort to ensure that the Department's current regulations do not contribute to the problem. More effective measures will have to be statutory, such as the Access to Justice Act, and the Department is considering proposing further legislation along these lines for the near future.

In the meantime, the Department of Justice has certified four state inmate grievance plans (Missouri, Kansas, Florida, and Hawaii) under a new, expedited policy. In addition, the Department has prepared an informational handbook to encourage other states to take advantage of this successful alternative dispute resolution mechanism.

4. Employment for F-1 Student Non-immigrants. In response to proposals received from affected organizations during the review period, the Department anticipates a revision to the INS regulations at 8 C.F.R. § 241.2(f). Section 208 of the Immigration Act of 1990 established a new pilot program for unrelated, off-campus

¹ 1 *Working Papers and Subcommittee Reports, Federal Courts Study Committee* at 391 (July 1, 1990).

employment for foreign students, but subject to rigorous labor certification requirements to prevent the displacement of domestic workers. In implementing this pilot program, INS abolished two pre-existing work programs for foreign students, one for practical training programs related to the student's course of study, and another for unrelated employment for foreign students who unexpectedly meet financial difficulty staying in school in the U.S. Interested representatives of schools and businesses advise that these changes have had a strongly deleterious (and unintended) effect on practical training opportunities and aliens in exigent circumstances. INS will consider prompt action to reinstate regulations governing the practical training program, and will evaluate the possibility of reinstatement of the exigent circumstances rule as well.

5. Religious Workers. INS has received a petition from an organization raising concerns with respect to the regulations governing religious nonimmigrant workers. Petitioners proposed to delete the current regulatory requirement that religious organizations, in order to be eligible, must hold tax-exempt status under § 501(c)(3) of the Internal Revenue Code; they proposed substituting State certification of non-profit status instead. Although INS will not be making that change, it will be responding to the concerns raised by issuing supplemental policy wires and operational instructions, which will be incorporated into the general operational instructions for 8 C.F.R. § 214.2(r), currently being drafted.

6. Employer Sanctions. In testimony before the Subcommittee on Immigration of the Senate Committee on the Judiciary, April 3, Commissioner McNary committed INS to conduct a thorough review of the document requirements of the INS Form I-9, which is used to certify the employment eligibility of all workers, as part of the employer sanctions process established by the Immigration Reform and Control Act of 1986. [[Need to address timing.]] As discussed more thoroughly below, INS is in the process of eliminating documents which it has previously issued to show employment eligibility, thus attempting to reduce the concerns of those who believe that confusion over these documents has contributed to employment discrimination based upon national origins or citizenship status.

7. Federal Tort Claims Act. The Department has prepared proposed amendments to 28 C.F.R. Part 14 (administrative claim requirements and procedures for the FTCA) to provide guidance to agencies regarding utilization of alternative disputes resolution in the course of administrative consideration of FTCA claims. In addition, the Department is actively considering a delegation of authority to the Secretary of Transportation increasing the authority of that agency to settle FTCA claims administratively.

The Department also has drafted proposed revisions to 28 C.F.R. Part 43 (implementing the Medical Care Recovery Act, providing for the recovery of the cost of hospital, medical care and treatment furnished by the United States when the United States is entitled under the Act to be reimbursed by a third party) in order to increase agency authority to settle and waive claims.

B. *New Pro-Growth Regulations*

1. Application of U.S. Antitrust Laws to Foreign Cartels. On April 3, 1992, the Department of Justice announced that it would no longer recognize a *de facto* immunity for foreign cartels whose activity harms U.S. export trade. The new policy is more in line with the statutory language of the Foreign Trade Antitrust Improvement Act of 1982. Law and policy dictate that conduct that would be illegal in the U.S. and has a direct, substantial and reasonably foreseeable effect in the U.S., but which occurs overseas should not be immune from antitrust enforcement. The new policy actually marks a return to the successful policy held by the Department until 1988, when a footnote in the Department's 1988 Guidelines for International Operations suggested that the Department would not enforce the U.S. antitrust laws against foreign cartels unless they harm U.S. consumers. This policy should allow U.S. exporters to compete on an even and fair basis with their foreign and domestic counterparts.

2. Information Sharing with the States. On March 6, 1992, the Department of Justice announced a new procedure whereby parties to a merger can, at their election, waive existing confidentiality rules, so that Federal and State competition authorities may share information filed by the parties in one jurisdiction or the other. This should eliminate the need for the parties to make duplicate or inconsistent filings, which up to now, has in some cases proven to be a substantial burden in time and cost. We are hopeful that parties who avail themselves of the new procedure will find these burdens significantly reduced.

The Federal Trade Commission has filed notice in the Federal Register that it intends to adopt a similar program.

3. Foreign Corrupt Practices Act. On January 9, 1992, the Department published for public comment a proposed regulation which would establish a Foreign Corrupt Practices Act Opinion Procedure as required by Pub. L. No. 100-418, § 5003. Under the proposed regulation, publicly held corporations, other businesses, and individuals could obtain an opinion from the Attorney General as to whether specified prospective conduct would, for purposes of the Department's present enforcement policy, violate the anti-bribery provisions of FCPA.

The proposed regulation is consistent with purposes of the President's memorandum. It should provide clarity and certainty to

the regulated community, thereby avoiding needless ambiguity and litigation. Additionally, it is expected that the proposed clarification of the procedure for obtaining an opinion letter from the Department will encourage such requests and foster compliance with FCPA. This regulation should be finalized in the next several weeks.

II. DESCRIPTION OF REGULATORY PROGRAMS FOR WHICH NO CHANGE IS MADE PURSUANT TO THE 90-DAY REVIEW

This section of the report describes the regulations of the various components of the Department, as to which no change is proposed at this time. However, we note that, with respect to some of these regulations; consideration is being given as to possible changes that may be proposed in the future, depending upon the results of the Department's evaluation. In some cases, revisions had already been planned or initiated before the beginning of the review period.

Many of the Department's regulations are for organizational purposes or for internal management and operations. Part 0 of 28 C.F.R. sets forth the organizational structure of the Department of Justice, and includes many delegations of authority to the Department's components, as well as limitations on that authority. For example, Subpart Y of Part 0, 28 C.F.R. § 0.160 et seq., contains the Department's regulations governing the exercise of settlement authority in litigation, reserving certain authority only for the Deputy Attorney General while delegating specified authority to the Assistant Attorneys General in charge of the litigation divisions and other authority to the United States Attorneys. This analysis does not include regulations that are purely organizational or contain only internal operating procedures.

A. Antitrust Division

1. Newspaper Preservation Act, 18 U.S.C. § 1801, et seq. The Act provides that certain joint operating arrangements (JOAs) may receive antitrust immunity where the Attorney General has made a factual finding that (i) one of the newspapers is a "failing newspaper", and (ii) granting the exemption would effectuate the policy and purpose of the Act. The Department's regulations (28 C.F.R. Part 48) under this Act are purely procedural; they simply set forth the procedures by which parties may apply to the Attorney General for a review of and antitrust exemption for their proposed JOA. The regulations do not impose a substantial cost on the economy and do not meet the threshold standard for review under the President's memorandum.

B. Bureau of Prisons

1. Custody and Treatment of Inmates. The rulemaking undertaken by the Bureau of Prisons is for the purpose of providing for the safekeeping, care, custody, control, treatment, and instruction of inmates confined in Federal correctional facilities. These regulations, which are codified at 28 C.F.R. Chapter V, Parts 500-572, are essential to a criminal law enforcement function of the United States and do not impose a substantial cost on the economy.

2. Federal Prison Industries, Inc. (UNICOR). UNICOR has regulations governing the compensation of inmates injured in accidents while carrying out responsibilities in the UNICOR program, as well as regulating the salary and work schedules of inmates for UNICOR labor. These regulations, codified at 28 C.F.R. Parts 301 and 345, are essential to a criminal law enforcement function of the United States and do not impose a substantial cost on the economy.

3. Entry by UNICOR into New Product Lines. UNICOR has adopted internal operating procedures for the implementation of 18 U.S.C. § 4122, which establishes procedures for involving private industry in UNICOR decisions to produce new products or significantly expand production. These procedures have not been issued as regulations. Although new product decisions by UNICOR do not impose any regulatory burden on the private sector, as such, UNICOR's actions do have an important impact in the private sector by providing alternative sources of supply. These procedures are intended to promote full consideration by UNICOR of the impact that its decisions may have on companies in the private sector, as well as recognizing the critical importance of maintaining and expanding UNICOR's operations as a means of maintaining discipline and vocational training for a rapidly growing federal prison population. In order to facilitate application of these new procedures, BOP has recently hired a full-time ombudsman to consider comments and complaints from the private sector regarding the activities of UNICOR.

C. *Civil Division*

1. Federal Torts Claims Act. The Department's regulations governing claims under the Federal Tort Claims Act (FTCA) are set forth in 28 C.F.R. Parts 14 and 15. Part 14 sets forth regulations, applicable to every agency, regarding the administrative claim requirements and procedures for FTCA claims. As noted above, the Department has proposed revisions to increase agency utilization of alternative disputes resolution techniques in the course of administrative consideration of FTCA claims, and to increase the level of agency settlement authority for FTCA claims. Part 15 specifies the procedures to follow when a person has been sued under circumstances where the person or his agency believe that the FTCA provides an exclusive remedy. No revisions are in progress.

2. Medical Care Recovery Act. 28 C.F.R. Part 43 sets forth regulations implementing this Act, which provides for the recovery of the cost of hospital, medical care and treatment furnished by the United States when the United States is entitled under the Act to be reimbursed by a third party. The Department is submitting amendments to this regulation to increase agency authority to settle and waive claims.

3. Radiation Exposure Compensation Act. The Act provides for compassionate payments to persons who were exposed to fallout and radiation from the Federal Government's nuclear weapons testing program and who subsequently developed certain specified cancers or other serious non-malignant respiratory diseases. The Department's draft final regulations to implement this Act were reviewed under the standards of the President's memorandum of January 28, 1992, and have recently been approved by OMB; they are presently under final review by the Deputy Attorney General.

These regulations will not "impose a substantial burden on the economy." This rule does not regulate business nor will it have an effect on emerging technologies and markets. It will not impose any costs on consumers or impede economic growth. To the contrary, the end result of the final rule will be to promote economic growth by funneling \$30 million of previously appropriated funds to claimants who resided in six western states during the nuclear testing program. Changes were made in the drafting of the final regulation to avoid unnecessary hurdles for claimants seeking to establish eligibility.

4. Federal Employee Representation. 28 C.F.R. §§ 50.15 and 50.16 describe the conditions under which a federal employee sued in his individual capacity may be represented by, or at the expense of, the Department of Justice. In addition, these regulations provide the terms of such representation. These regulations impose no burden on the economy. By allowing this representation, the regulations operate to mitigate the substantial burden that can be imposed upon government officials when they are sued in their individual capacity.

5. Civil Penalties Under the Anti-Drug Abuse Act. Section 6486 of the Anti-Drug Abuse Act of 1988 provides for a civil penalty not to exceed \$10,000 for knowingly possessing certain designated controlled substances in "personal use amounts," as defined in regulations promulgated by the Attorney General. Proposed regulations implementing sections 6486 were developed by the Civil Division and published in the Federal Register. Following review of extensive comments received from various individuals and organizations involved in criminal justice administration, the Department published a final rule, 28 C.F.R. Part 76, on January 11, 1991.

The Civil Division undertook to implement the civil drug penalty program on a pilot basis through six United States Attorney's offices. In late summer 1991, it became clear that funding was not available within the Civil Division in FY 1991 to hire administrative law judges on a contract basis to implement the pilot program. Funding for the program remains uncertain. The pilot program is consequently being held in abeyance, and no further steps toward its implementation are currently being taken.

D. Civil Rights Division

1. Nondiscrimination on the Basis of Disability in State and Local Government Services. 28 C.F.R. Part 35 implements Subtitle A of title II of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12131, which prohibits discrimination on the basis of disability by State and local government entities. The title II regulation was issued July 26, 1991, after a series of public hearings on the proposed rule were held across the country. Prior to publication, the regulation was submitted to and approved by OMB under Executive Order 12291. Although both the Department and OMB agreed that the title II regulation was not a major rule requiring a Regulatory Impact Analysis (RIA) under Executive Order 12291, the Department prepared a preliminary RIA because of the wide-ranging impact of the ADA. The RIA was reviewed and approved by OMB.

Because the title II regulation was so recently reviewed and approved by OMB, the Civil Rights Division affirms that it complies with the standards set forth in the President's memorandum to the maximum extent feasible. All available information regarding compliance with such standards is contained in the RIA, which concludes that the overall economic impacts of the regulation are likely to be quite minor.

2. Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities. 28 C.F.R. Part 36 implements title III of the ADA, which prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with accessibility standards established by that Part. The title III regulation was issued July 26, 1991, after a series of public hearings on the proposed rule were held across the country. Prior to publication, the regulation was submitted to and approved by OMB under Executive Order 12291. In addition, pursuant to Executive Order 12291 the Department prepared a preliminary RIA, which was review and approved by OMB. Based on comments received from OMB, the Department issued a revised RIA.

The title III regulation was recently reviewed and approved by OMB, after extensive analysis within the Administration. Although the President's memorandum was issued later, its standards are comparable to the principles under which the draft regulation was

evaluated. Accordingly, the Civil Rights Division affirms that it complies with the standards set forth in the President's memorandum to the maximum extent feasible. All available information regarding compliance with such standards is contained in the RIA.

3. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Justice. 28 C.F.R. Part 39 sets forth the Department's regulations to implement section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978, prohibiting discrimination on the basis of handicap in programs or activities conducted by Executive agencies, including the Department of Justice. This regulation is for internal Department of Justice purposes only and imposes no costs on the economy.

4. Implementation of Executive Order 12250, Nondiscrimination on the Basis of Handicap in Federally Assisted Programs. 28 C.F.R. Part 41 implements the portion of Executive Order 12250 that requires the Department of Justice to coordinate the implementation of section 504 of the Rehabilitation Act of 1973 with other Federal agencies obligated by section 504 to eliminate discrimination on the basis of handicap with respect to programs and activities receiving financial assistance from such agencies. This regulation does not impose a substantial burden on the economy. Instead, it promotes the efficient operation of the Federal government by coordinating the activities of those agencies that provide Federal financial assistance.

5. Nondiscrimination; Equal Employment Opportunity; Policies and Procedures. 28 C.F.R. Part 42, Subpart C (Nondiscrimination in Federally Assisted Programs - Implementation of Title VI of the Civil Rights Act of 1964, 78 Stat. 252) implements the provisions of title VI that provide that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in or be denied the benefits of, or otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Justice.

The Civil Rights Division believes that elimination of discrimination on these grounds does not impose costs on the economy but, instead, eliminates the cost of inefficiencies resulting from irrational discrimination. The scope of this regulation is limited to the recipients of financial assistance from the Department of Justice.

28 C.F.R. Part 42, Subpart F (Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs) implements the portion of the Executive Order 12250 that requires the Department of Justice to coordinate the respective obligations of Federal agencies regarding the enforcement of title VI of the Civil Rights Act of 1964 and similar provision in the Federal grant statutes to the extent they relate to prohibiting discrimination on the ground

of race, color, or national origin in programs receiving Federal financial assistance.

This regulation does not impose a substantial cost on the economy. Instead, it promotes the efficient operation of the Federal agencies by coordinating the activities of those agencies that provide Federal financial assistance.

28 C.F.R. Part 42, Subpart G (Nondiscrimination Based on handicap in Federally Assisted Programs - Implementation of Section 504 of the Rehabilitation Act of 1973) implements section 504 of the Rehabilitation Act, as amended, which prohibits discrimination on the basis of handicap in any program receiving Federal financial assistance from the Department of Justice.

The Department's section 504 regulations were published in 1980. Thus, most recipients of Federal financial assistance from the Department of Justice have been subject to these regulatory requirement for a substantial period of time and continued compliance should not impose any substantial cost on the economy.

28 C.F.R. Part 42, Subpart H (Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance) implements the portion of Executive Order 12250 that requires the Department of Justice to implement procedures for processing and resolving complaints of employment discrimination filed against recipients of Federal financial assistance subject to title VI of the Civil Rights Act of 1964, title IX of the Education Amendments Act of 1972, 42 U.S.C. §§ 2000d to 2000d-4, the State and Local Fiscal Assistance Act of 1972, as amended, 31 U.S.C. § 1221, et seq., and provisions similar to title VI and title IX in Federal grant statutes. Enforcement of such provisions in Federal grant statutes is covered by this regulation to the extent that they relate to prohibiting employment discrimination on the ground of race, color, national origin, religion, or sex in programs receiving Federal financial assistance of the type subject to title VI or title IX.

This regulation does not impose a substantial cost on society. Instead, it promotes the efficient operation of the Federal government by coordinating the activities of those agencies that provide Federal financial assistance in investigating and resolving complaints of employment discrimination filed against recipients of such financial assistance.

E. Criminal Division

1. Foreign Agents. The Internal Security Section of the Criminal Division administers and enforces four criminal statutes, each requiring formal regulations. The statutes are: the Foreign Agents Registration Act, 22 U.S.C. § 611, et seq.; Notification to the Attorney General by Agents of Foreign Governments, 18 U.S.C.

§ 951; Registration of Certain Persons Under the Act of August 1, 1956, 50 U.S.C. § 851, et seq.; and Registration of Certain Organizations Under the Act of October 17, 1940, 18 U.S.C. § 2386. These regulations, 28 C.F.R. Parts 5, 10 and 12, provide the guidance necessary to comply with the disclosures required by the respective statutes. These regulations do not impose needless costs on consumers nor substantially impede economic growth. All four statutes are essential to a criminal law enforcement function of the United States.

The Department is currently taking steps to reduce the paperwork burden on registrants who must complete disclosure forms required by regulations promulgated under the Foreign Agents Registration Act. On January 7 and January 8, 1992, the Department sent letters to all current registrants asking for their comments and suggestions on reducing the paperwork burdens associated with the Initial Registration, Supplemental Statement, and Short-Form Registration forms. A draft regulation should be ready for action in May 1992.

2. Protection of federal officials. The Terrorism and Violent Crime Section of the Criminal Division has statutory jurisdiction over 18 U.S.C. § 1114, and related statutes, which provide for the protection of officers and employees of the United States. Section 1114 authorizes the Attorney General to designate by regulation additional federal officials for coverage under these statutes. This regulation is mandated by statute, does not impose a substantial burden on the economy, and is essential to a law enforcement function of the United States.

3. Child Pornography. The Child Exploitation and Obscenity Section of the Criminal Division has statutory jurisdiction over the Child Protection Restoration and Penalties Enhancement Act, 18 U.S.C. § 2257. This Act requires that producers of matter containing visual depictions of four specific, statutorily defined types of "actual sexually explicit conduct" to create and maintain records concerning the age and identity of the performers depicted. The Attorney General approved final implementing regulations on April 14, 1992, which were previously approved by the Office of Management and Budget for publication during the 90-day review period. These regulations require producers of sexually explicit portrayals to maintain certain records concerning the participants to deter the use of minors. The Department believes that these regulations are essential to a criminal law enforcement function of the United States and do not impose a substantial cost on the economy. Further, the expected benefits to society of this regulation from deterring the abuse of minors in sexually explicit portrayals clearly outweigh any potential burden associated with it.

F. Drug Enforcement Administration

Pursuant to 21 U.S.C. § 811(a), any amendments to the controlled substances schedules "shall be made on the record after opportunity for a hearing." The Drug Enforcement Administration's regulations implementing this provision, 21 C.F.R. Part 1308, are procedural provisions governing such hearings before an Administrative Law Judge (ALJ). Proceedings to revoke or deny a registration or an application are also formal proceedings conducted before an ALJ, and the DEA procedural regulations are set forth at 21 U.S.C. Part 1316.

DEA's other regulations relate to registration, record-keeping, reporting, fees, and security of the licit controlled substance industry. With respect to fees, the amounts the DEA charges registrants could at best be classified as de minimis. For example, for each manufacturer, the initial application fee is only \$250. 21 C.F.R. § 1301.11. The President's directive addresses regulations which impose a "substantial cost" on business or the public. DEA believes that its fee structure does not meet this test.

The regulations requiring adequate security for controlled substances by registrants, 21 C.F.R. § 1301.71 et seq., again could be argued as being, if not de minimis, certainly not imposing a substantial cost on the industry. Moreover, these costs, as well as those which may be associated with the recordkeeping and reporting requirements of the Controlled Substances Act, 21 C.F.R. Parts 1304 and 1310, are clearly outweighed by the benefits to society in protecting against the diversion of controlled substances to the illicit market and the illicit manufacture of controlled substances. Controlled substances, by their very nature, have a potential for abuse and, therefore, these regulations are necessary to provide adequate mechanisms of control.

G. Executive Office for Immigration Review

Both existing and proposed regulations governing matters over which EOIR has administrative responsibility are in compliance with the standards of the President's memorandum. Furthermore, neither the existing regulations nor the regulations proposed for publication by EOIR will unnecessarily burden U.S. businesses or inhibit the competitiveness or economic growth of the United States.

EOIR has three regulatory proposals currently awaiting publication in the Federal Register. The proposed regulations address: 1) rules and procedures before immigration judges; 2) motions and appeals in immigration proceedings; and 3) rules on termination of conditional lawful permanent resident status for alien entrepreneurs. These regulations will carry out the mandates of Congress and the President in the Immigration Act of 1990. The regulations proposed by EOIR will have no discernible effect on the economy of the United States, U.S. businesses, or the competitiveness of the United States in international trade.

H. *Executive Office for United States Trustees*

28 C.F.R. Part 58, implementing the Bankruptcy Reform Act of 1978, sets forth the minimum qualifications and eligibility standards for individuals who seek to be appointed as a standing trustee or to serve on a panel of chapter 7 trustees to administer the assets on bankruptcy estates. These regulations do not burden the economy or the public. To the contrary, the public interest is benefitted by such minimum standards.

The Department currently is in the process of drafting amendatory language to raise the minimum standards set forth in Part 58. These changes will be made in compliance with the standards set forth in the President's memorandum.

I. *Federal Bureau of Investigation*

28 C.F.R. §§ 16.30-16.34 govern the production of FBI Identification Records (arrest and conviction records or "Rap Sheets") in response to written requests by the subjects thereof. These regulations do not impose a substantial cost on the economy. The FBI charges a standard fee to requesters to defray the costs.

J. *Immigration and Naturalization Service²*

INS has been especially active in the last 16 months, having prepared probably over 50 regulations to implement various provisions of the Immigration Act of 1990 (IMMACT), which substantially revised the laws governing legal immigration as well as many criminal enforcement matters.

As part of the process of responding to the President's memorandum, and recognizing the importance of comments by private persons and immigration attorneys in assisting the review of INS regulations, INS published a notice in the Federal Register on March 30 (57 Fed. Reg. 10743), inviting public comments by April 29, 1992 on regulations that may be burdensome or otherwise appropriate for review under the standards of the President's memorandum. Some comments have already been received, and the Department will provide a supplemental response addressing any comments that may be received after this initial report is prepared. INS will complete its review of these comments by May 30, 1992.

1. Asylum. The 1990 final asylum regulations abandoned the former INS practice of adjudicating asylum petitions in the district offices and created a specialized corps of asylum officers to hear such petitions. The new system fully took effect on April

² INS will be providing further information for this review. Accordingly, this discussion will be expanded.

1, 1991, and additional personnel have since been approved. Unfortunately, because of prior backlogs of cases, shortcomings in the asylum offices' procedures, the requirements of the new regulations, and unanticipated international developments (particularly in Haiti), the new asylum corps has not been as productive as it should be. Moreover, their docket is growing rapidly because of applicants who abuse the process to get interim work authorization. Accordingly, even before the beginning of the review period, a Department-wide working group has been actively developing a series of administrative and regulatory changes to improve the management of the asylum process, in order to grant meritorious claims promptly while weeding out frivolous petitions.

2. Nonimmigrant visas. INS has developed revisions to its regulations governing admission of temporary nonimmigrants for business, as well as for the new O and P visas (for prominent aliens in the arts, entertainment, sports, etc.), which has been a very troublesome issue with the affected industries. These regulations, which are intended to reduce the burden on employers in filing for visas for aliens in these categories, and to allow them more flexibility, have already been approved by the Department and are pending in the OMB review process.

3. Air Carrier Fines. The Air Transport Association has filed a petition with INS seeking a "Carrier Compliance Initiative" that would provide grounds for mitigation of fines imposed upon air carriers transporting aliens ineligible for admission to the United States. In recognizing the severity of illegal entry at airports only last year, Congress authorized substantial increases in the civil money penalties. To date, that increase in penalties has not resulted in a reduction of the violations encountered, but has resulted in a substantial gain in fine revenues. The "Carrier Compliance Initiative" proposed in the petition appears to add little incremental effort to deter illegal entry, but could reduce revenues which are used directly for detention costs associated with the program. INS will review allegations about inconsistencies in its operations, but is interested in seeing more results from compliance efforts before modification of current fine levels.

Forms Reduction. INS has been very aggressive during the past several years in achieving reductions in the number of form creation, as well as, ensuring that the Administration's paperwork Reduction Goals are achieved. To date, these forms reduction efforts have resulted in the cancellation of 177 forms and the establishment of an automated Forms Control Tracking System to improve the monitoring and tracking of all INS forms created, revised and canceled. This has served as an excellent tool in avoiding duplication.

A related major initiative, the Forms Improvement Project, began in 1989. The project involves the review of 61 forms and documents used in the adjudication and naturalization process.

The goals are to simplify filing requirements, improve service, reduce the information burden on the applicants (public), refocus questions to obtain necessary information without requesting ancillary data, and also to improve internal processing in order to expedite the adjudications of decisions on applications and petitions for benefits.

To date, the current effort to reduce the reporting burden on individual applicants has focused on the forms themselves with the incorporation of a number of strategies to meet the goals. These are: 1) forms consolidation; 2) refining what information is required; and 3) documentation, standardization and clearer instructions.

The project involves three phases: Phase 1 consolidated 20 forms into 6, 2 of which were revised for other INS benefit programs, and Phase 2 consolidated 28 forms into 13 with 1 new form created. Phase 3 will result in the consolidation of 7 forms into 3, with 3 other forms being revised. Action to date has resulted in the elimination of 18 adjudication/naturalization forms (Public Use Forms).

K. *Justice Management Division*

1. Federal Claims Collection Standards. Pursuant to 31 U.S.C. § 3711(e)(2), the Attorney General and the Comptroller General jointly issue regulations, 4 C.F.R. Parts 101-105, for the heads of executive and legislative agencies to use in collecting or compromising federal debts arising under their programs. On behalf of the Attorney General, these regulations are drafted and administered jointly by JMD's Office of Debt Collection Management and the Department's Civil Division. The regulations instruct federal agencies in the procedures to follow to collect debts owed to the United States and prepare such debts for referral to the Department for litigation and contain provisions authorizing the privatization of portions of the collection process. JMD has reviewed these regulations under the standards of the President's memorandum of January 28, 1992, and has determined that they are largely internal to the federal government in application and do not impose, in any event, a substantial cost on the economy.

2. Debt Collection, Pursuant to 31 U.S.C. § 3718(b)(1)(A), JMD administers regulations, 28 C.F.R. §§ 11.1-11.3, to implement a Department pilot program (currently due to expire on September 30, 1992, see Dire Emergency Supplemental Appropriations Act of 1990, Pub. L. No. 101-302, Title II, 104 Stat. 213, 216 (1990)), designed to privatize the collection of debts owed to the United States by providing for the retention, pursuant to standard competitive procurement procedures, of private counsel to collect such debts. In addition, JMD administers regulations establishing procedures to refer debts owed to the United States to the Internal Revenue Service for collection by tax refund offset. 28 C.F.R.

§ 11.10; see also Proposed Rule, 56 Fed. Reg. 8,734 (1991) (proposing, *inter alia*, to broaden the regulation's coverage to include organizations and entities in addition to individual debtors and to include debts that are legally enforceable but not reduced to judgment). JMD has reviewed these regulations under the standards of the President's memorandum of January 28, 1992, and has determined that they do not impose in any event a substantial cost on the economy.

3. Administrative Offset of Employee Salaries. Pursuant to 5 U.S.C. § 5514 and 31 U.S.C. § 3716, JMD has drafted a Proposed Rule, 56 Fed. Reg. 49,729 (1991) (to be codified at 28 C.F.R. Part 11), to establish procedures for the collection, by administrative offset of the salaries of Department employees, of debts owed to the United States. JMD has reviewed these proposed regulations under the standards of the President's memorandum of January 28, 1992, and determines that they are almost wholly internal to the Department in application and thus do not impose a substantial cost on the economy.

4. Implementation of Executive Order No. 12356, "National Security Information". 28 C.F.R. Part 17 contains the Department's regulations implementing Executive Order No. 12356, and establishes procedures for the protection of national security information within the Department. JMD has reviewed these regulations under the standards of the President's memorandum of January 28, 1992, and determines that they are almost wholly internal to the Department in application and thus do not impose a substantial cost on the economy.

5. Standards of Conduct. 28 C.F.R. Part 45 contains the Department's regulations, issued pursuant to various statutes, Executive Orders, and regulations, relating to conflicts of interest and ethical standards of behavior. These regulations, which prescribe standards, policies, and instructions relating to the conduct and behavior of Department employees and former Department employees, will be largely superseded when the Office of Government Ethics promulgates its new government-wide regulations, to be codified at 5 C.F.R. Part 2635.

6. Program Fraud Civil Remedies Act of 1986. 28 C.F.R. Part 71 sets forth the Department's regulations, pursuant to 31 U.S.C. § 3809, establishing administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents. [[Add further description of the operation of these regulations and the Department's experience in applying them.]] JMD has reviewed these regulations under the standards of the President's memorandum of January 28, 1992, and determines that they do not impose a substantial cost on the economy.

7. Justice Property Management. Pursuant to the Federal Property Management Regulations, 41 C.F.R. Chapter 101 (the FPMR), separate regulations were established in 41 C.F.R. Chapter 128 to provide supplemental Department property management policies and procedures. As such, those regulations cover only those areas where specific agency implementation is required by the FPMR or where Department policies or procedures exist that supplement FPMR coverage. JMD has reviewed these regulations under the standards of the President's memorandum of January 28, 1992, and determines that they do not unnecessarily repeat or supplement the FPMR and are almost wholly internal to the Department in application, and thus do not impose a substantial cost on the economy.

8. Acquisition. Pursuant to the Federal Acquisition Regulations, 48 C.F.R. Chapter 1 (FAR), these regulations were established in 48 C.F.R. Chapter 28 to provide supplemental Department procurement policies and procedures. As such, these regulations cover only those areas where specific agency implementation is required by the FAR or where Department policies or procedures exist that supplement FAR coverage. These regulations are designed to maximize competition and increase the quality of the goods and services procured by the Department. JMD has reviewed these regulations under the standards of the President's memorandum of January 28, 1992, and determines that they do not unnecessarily repeat or supplement the FAR, are largely internal to the Department in application, and do not impose, in any event, a substantial cost on the economy.

L. *National Central Bureau - INTERPOL*

INTERPOL has published regulations, 28 C.F.R. § 73.1 et seq., setting forth the requirements for foreign investigative agents performing duties in the United States. These regulations do not impose a substantial burden on the economy and do not meet the threshold standard for review.

M. *Office of Information and Privacy*

The Office of Information and Privacy (OIP), a component of the Department's Office of Policy and Communications, coordinates the responsibilities of the Department of Justice under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act of 1974, 5 U.S.C. § 552a. The Department's regulations implementing the FOIA, 28 C.F.R. Part 16, Subpart A, are purely procedural and do not impose any regulatory burdens on the public. Section 16.7 of those regulations implements the procedures under Executive Order No. 12600 for prior notification to submitters of confidential business information and providing them an opportunity to argue that the information is exempt from disclosure before such information they have submitted is disclosed in response to a FOIA request.

The Department's regulations implementing the Privacy Act, published at 28 C.F.R. Part 16, Subpart D, also are procedural and govern the maintenance, use and correction of systems of records. The Privacy Act provides for agencies to publish exemptions from its disclosure requirements and a number of other statutory requirements under the Act, depending upon the nature of the records in the system. Subpart E contains the published exemptions for the various systems of records maintained by the components of the Department of Justice. These regulations do not impose any regulatory burden on the public, but exempt the Department from having to comply with certain statutory requirements with respect to specified records.

N. *Office of Justice Programs*

The Office of Justice Programs (OJP) comprises five separate bureaus involved in research and grant-making activities: the National Institute of Justice (NIJ), the Bureau of Justice Statistics (BJS), the Bureau of Justice Assistance (BJA), the Office of Juvenile Justice and Delinquency Prevention (OJJDP), and the Office for Victims of Crime (OVC).

The regulations of the OJP agencies may be grouped into three categories.

1. Grant Administration. The first category includes regulations pertaining to the eligibility requirements and administration of specific OJP grant or benefit programs.

- 28 C.F.R. Part 31, OJJDP Formula Grants. This part defines eligibility and sets forth requirements for application for and administration of formula grants to State governments authorized by the Juvenile Justice and Delinquency Prevention Act, 42 U.S.C. § 5601, et seq., and managed by OJJDP.
- 28 C.F.R. Part 32, Public Safety Officers' Benefits Program. This regulation, administered by BJA, implements the Public Safety Officers' Benefits Act of 1976, as amended, 42 U.S.C. § 3796, et seq., and defines the conditions, terms, and procedural requirements for a specified survivor of a deceased public safety officer killed in the line of duty to receive a \$100,000 benefit. This regulation is in the process of being revised to include the PSOB Act amendment in Pub. L. No. 101-647 providing for the same benefit to be paid to a public safety officer who has become permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty.
- 28 C.F.R. Part 33, Criminal Justice Block Grants. This regulation, administered by BJA, defines eligibility

criteria and sets forth requirements for application for and administration of block grants by State and local governments under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. § 3711, et seq.

- 28 C.F.R. Part 34, OJJDP Competition and Peer Review Procedures. This regulation implements section 262(d)(1)(A) and (d)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. § 5601, et seq., by setting forth the competitive process and peer review requirements and procedures, and the application requirements for grants under various sections of the Act.
- 28 C.F.R. Part 65, Emergency Federal Law Enforcement Assistance. This regulation implements the Emergency Federal Law Enforcement Assistance Program authorized by 42 U.S.C. § 10501, et seq., and sets forth the eligibility criteria and procedures for State and local units of government that are experiencing law enforcement emergencies to receive Federal funds and other assistance.
- 28 C.F.R. Part 61, Procedures For Implementing the National Environmental Policy Act (NEPA). The bulk of this regulation pertains to Department-wide procedures for complying with the National Environmental Policy Act of 1969, 42 U.S.C. § 4321, et seq. Appendix D to this Part sets out the actions required by OJP agencies and their applicants for projects which might require an environmental impact statement.
- 28 C.F.R. Part 66, Uniform Administrative Requirements For Grants and Cooperative Agreements To State and Local Governments. As part of a government-wide Common Rule for Executive Branch agencies, which acts to replace OMB Circular A-102, this regulation establishes uniform administrative rules, including cost allowances and reporting requirements, for units of the Department for Federal grants and cooperative agreements and subawards to State, local and Indian tribal governments.
- 28 C.F.R. Part 69, Restrictions on Lobbying. This part implements for the Department the restrictions on lobbying enacted by Pub. L. No. 101-121, section 319, which prohibits the use of appropriated funds by the recipient of a Federal contract, grant, loan or cooperative agreement to pay any person to influence an attempt to influence agency employees or Members of Congress in connection with the awarding of Federal grants, contracts, etc.

The above-described regulations do not impose a substantial cost on the economy. It must be stressed at the outset that these regulations are applicable to only those persons, States, or units of local government that elect to apply for grants or benefits under these programs, annually a relatively small number when viewed in the context of the general population. Moreover, the program regulations (Parts 31, 32, 33, 34, and 65) merely recite, compile or serve to clarify statutorily established eligibility requirements or processes of grant application review mandated by Congress.

Part 61 sets out the procedures required to ensure that proposed projects give appropriate consideration and verification that their projects will not have an adverse environmental effect, which is a fundamental imperative of NEPA. Part 66 merely serves to articulate Federal cost principles, reporting requirements, and other conditions governing the administration of Federal grants that are widely-used and sanctioned by most, if not all, Executive branch agencies that award financial assistance, for the purpose of ensuring the efficient, effective use and accounting of Federal funds. Part 66 recites the new restriction on lobbying imposed by Congress on Federal financial assistance programs. In OJP's experience, the costs associated with these regulations to the grantees or other recipients are minimal and have virtually no effect on our nation's economy.

2. Criminal Information and Statistics. A second category of OJP regulations deals with criminal history record information, criminal intelligence systems, and the confidentiality of research and statistical information if these subject areas are addressed in projects funded by the OJP agencies.

- 28 C.F.R. Part 20, Criminal Justice Information Systems. This part sets forth the requirements for projects administered by State and local agencies, and individuals and funded under the Omnibus Crime Control and Safe Streets Act, as amended, 42 U.S.C. § 3711, which collect, store, or disseminate criminal history record information. These requirements assure that this record information, wherever it appears, is collected, stored, and disseminated in a manner consistent with constitutional and statutory standards to insure the completeness, integrity, accuracy and security of such information and to protect individual privacy.
- 28 C.F.R. Part 22, Confidentiality of Identifiable Research and Statistical Information. This regulation sets out the requirements which govern the use and disposition of research and statistical information obtained, collected, or produced either by OJP agencies or their grantees, subgrantees, or contractors, to protect the privacy of individuals.

- 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies. The purpose of this regulation is to impose standards on all criminal intelligence systems operating through support under the Omnibus Crime Control and Safe Streets Act, as amended, 42 U.S.C. § 3711, et seq., to ensure that these systems operate in conformity with the statutorily based privacy and constitutional rights of individuals.

These regulations do not impose a substantial cost on the economy. Again, the requirements set forth in these regulations apply only to those State, local agencies, or other entities that elect to seek funding for the subject areas covered by these regulations, not the general population as a whole. The safeguards set out in these regulations are designed to protect the privacy and constitutional rights of individuals created by statutes and common law and to ensure the integrity of these operating systems and research and statistical findings. These requirements serve also to prevent successful lawsuits against the projects or the Federal government. For these reasons, OJP grantees freely accept these regulatory requirements as a condition of their awards because any procedural burden, the cost of which is minimal, is inconsequential when compared to the benefits these safeguards afford both the projects and the rights of individuals.

3. Denials of Grants and Sanctions. The last category of OJP regulations pertain to appeals related to grant denials and terminations, and enforcement of penalties and rights.

- 28 C.F.R. Part 18, OJP Hearing and Appeals Procedures. The purpose of these regulations is to implement the hearing and appeal procedures statutorily available to State block or formula grant applicants or recipients and existing categorical grantees regarding grant denials and terminations under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. § 3711, et seq., the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. § 5601, et seq., and the Victims of Crime Act of 1984, as amended, 42 U.S.C. § 10601, et seq.
- 28 C.F.R. Part 67, Government-Wide Debarment and Suspension (Nonprocurement) and Government-Wide Requirements For Drug-Free Workplace. This part sets forth the requirements and procedures which implement in the Department of Justice the government-wide nonprocurement debarment and suspension system mandated by Executive Order 12549. Under the policies and procedures embodied in this regulation, the product of a common rulemaking exercise orchestrated by the Office of Management and Budget, the Department may debar or suspend a person from receiving Federal financial and nonfinancial assistance

under Federal programs for causes enumerated in this regulation. This part also implements in the Department the Government-Wide requirements of the Drug-Free Workplace Act of 1988 as it pertains to recipients of grants. For example, a grantee must assure the grantor agency as a condition of its grant that it will provide a drug-free workplace.

- 28 C.F.R. Part 76, Rules of Procedure For Assessment of Civil Penalties For Possession of Certain Controlled Substances. This regulation implements section 6486 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 844(a), and establishes procedures for imposing civil penalties against persons who knowingly possess a controlled substance for personal use, and specifies the appeal rights of persons subject to a civil penalty under § 6486 of the Act.
- 28 C.F.R. Part 42, Nondiscrimination; Equal Employment Opportunities; Policies and Procedures. This part pertains to the nondiscrimination policies and procedures promulgated by the Department to implement several Federal civil rights laws, including the Civil Rights Act of 1964, the Age Discrimination Act of 1967, the Rehabilitation Act of 1973, and OJP authorizing legislation. Subparts D, E and H, and Appendix D to Subpart G apply these nondiscrimination policies and procedures to projects funded by the OJP agencies to facilitate the timely investigation and remedial action, where warranted, of complaints of discrimination against projects funded by the OJP agencies.

We believe that the nature and statutory source of these regulations demonstrate that these regulations implement routine statutory provisions governing most, if not all, Federal financial assistance programs and clearly do not meet the threshold level of review. Each of these regulations is founded on either a Federal statute or an Executive Order, as noted, and serves only to provide the requisite policies and procedures necessary to carry out the intent of their enabling authority. These regulations provide support for the attainment of the Department's mission.

O. *United States Marshals Service*

The U.S. Marshals Service has only one published external regulation, 38 C.F.R. § 0.114, which sets forth the fees charged to private litigants for the services performed by the Marshals Service in federal civil court proceedings. This regulation conforms with the President's standards and does not impose a significant burden on the economy. The fee regulation is targeted to particular beneficiaries of specific Government services and is

designed to reimburse the Government for specific costs incurred and services rendered.

P. United States Parole Commission

The U.S. Parole Commission has statutory authority, 18 U.S.C. § 4203, to promulgate rules and regulations implementing the parole statutes. These regulations, 28 C.F.R. Part 2, set forth the procedures and policies that govern parole and parole revocation hearings, as well as the terms and conditions of parole supervision. The Commission also has regulations setting forth its procedures for reviewing applications for exemptions from an ex-convicts inability to hold positions with unions and pension plans. All of these regulations concern only federal inmates and parolees, and those who represent them. They do not impose a substantial burden on the economy and are essential to a criminal law enforcement function of the United States.

III. DESCRIPTION OF PROCESSES USED TO REVIEW AGENCY REGULATIONS

In response to the President's memorandum of January 28, 1992, the Attorney General designated James F. Rill, Assistant Attorney General in charge of the Antitrust Division, to be the Department's representative to the Council on Competitiveness in connection with the review of agency regulations. The Antitrust Division has coordinated the review of internal Department of Justice regulations with the Department's Office of Policy Development (OPD), which for several years has been the point of contact with the Office of Information and Regulatory Affairs regarding the review and clearance of agency regulations under Executive Order No. 12291.

The Department's immediate focus after the President's memorandum of January 28 was to obtain the necessary clearance for immediate publication of several pending regulations covered by statutory deadlines or of significant importance in enforcing the criminal laws. All requests for immediate publication were reviewed by OPD and the Office of Legal Counsel, and were approved by Assistant Attorney General Rill. Once those matters were handled, the Antitrust Division and OPD initiated a review of all of the Department's regulations.

To further this review process, the Acting Deputy Attorney General sent a memorandum to the heads of all components of the Department of Justice, requesting them to provide a prompt and thorough analysis of their existing regulations under the standards of the President's memorandum, as well as a description of proposed regulatory or statutory changes resulting from this review process. Also, after receiving several letters suggesting changes to INS regulations, and recognizing the importance of receiving public comments especially in the complex area of immigration regulations,

which affect millions of individuals as well as businesses, the Immigration and Naturalization Service published a notice in the Federal Register on March 30 (57 Fed. Reg. 10743), inviting public comments by April 29, 1992 on regulations that may be burdensome or otherwise appropriate for review under the standards of the President's memorandum. Any comments that are received too late to be addressed in the Department's initial response at the close of the 90-day review period will be addressed in a supplemental analysis within 30 days.

Once the individual components provided their analysis of existing regulations, those analyses were consolidated into a standard format, and a number of further inquiries were made of the components where necessary to obtain additional information or to respond to specific issues.

IV. DESCRIPTION OF MEANS TO INSTITUTIONALIZE THE REVIEW PROCESS

The Deputy Attorney General circulated a copy of the President's memorandum to the heads of all components of the Department, and each component, in proposing future regulatory actions, will be expected to justify its submissions under the standards of the President's memorandum, in addition to formal standards established under Executive Order Nos. 12291, 12498, and 12778.

Within the Department of Justice, most components do not have delegated rulemaking authority, and their regulations are issued as Attorney General Orders. That regulations require the approval of the Attorney General brings into play a substantial and careful review process. Under longstanding Department practice, a draft Attorney General Order must be reviewed as to form and legality by the Office of Legal Counsel, and then be approved by the Deputy Attorney General (and the Associate Attorney General for matters under his supervision), before being presented to the Attorney General for signature.

However, rulemaking in some instances is decentralized, with the heads of certain components authorized to promulgate regulations on their own initiative. Principally, this category includes regulations adopted by the Bureau of Prisons and the Drug Enforcement Administration and certain regulations issued by the Immigration and Naturalization Service. (The U.S. Parole Commission, which is attached to the Department for administrative purposes, issues its regulations separately.)

Several years ago, in order to provide greater policy guidance and coordination with respect to all regulations prepared by the many components of the Department of Justice, particularly those with independent rulemaking authority, the Attorney General directed the Department's Office of Policy Development (OPD) to be

the principal point of contact with OMB on regulatory issues, and to review all regulatory proposals before submission to OMB.

Although very few regulations published by the Department meet the threshold standard for review under the President's memorandum (that they would impose a substantial cost on society), the standards of that memorandum nevertheless set forth valuable standards that will be used to guide all future rulemaking by the Department, whether or not they meet the threshold standard. In addition to requiring each component to scrutinize its own regulatory actions, the Department's review process now will include a specific step to ensure that this analysis was done fully, prior to submission of the regulation to OMB.

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DEPARTMENT OF JUSTICE
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Office of Professional Responsibility

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'92 JUL -7 P3:53

EXECUTIVE SECRET

July 6, 1992

MEMORANDUM FOR THE ATTORNEY GENERAL

Re: Annual Report of the Office
of Professional Responsibility

I transmit herewith the Annual Report of the Office of Professional Responsibility for 1991.

Michael E. Shaheen Jr.
Counsel

ANNUAL REPORT TO THE ATTORNEY GENERAL

1991

OFFICE OF PROFESSIONAL RESPONSIBILITY

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I. INTRODUCTION

The Office of Professional Responsibility was created by order of the Attorney General on December 18, 1975, to ensure that "Department employees continue to perform the duties of the Department in accord with the professional standards expected of the nation's principal law enforcement agency." This report is submitted pursuant to 28 C.F.R. §0.39a(i)(3), which directs the head of the Office, the Counsel on Professional Responsibility, to submit an annual report reviewing and evaluating the activities of the internal inspection units in certain components of the Department. This report covers the period January 1, 1991, to September 30, 1991.^{1/}

II. JURISDICTION AND FUNCTIONS

The Office of Professional Responsibility is responsible for the investigation of allegations of misconduct on the part of Department employees in attorney, criminal investigative or law

^{1/}As noted in last year's report, we are in the process of converting our reporting period from a calendar year to a fiscal year basis. This Annual Report to the Attorney General covers a transitional period consisting of the final nine months in fiscal year 1991. The next annual report will cover the full fiscal year 1992 (October 1, 1991 - September 30, 1992).

enforcement positions.^{2/} Attorneys from the Office directly investigate misconduct allegations against all attorneys in the Department and its components, as well as high-ranking officials in criminal investigative and law enforcement positions.^{3/} In some cases, the Office refers less serious allegations against attorneys in the United States Attorneys' offices to the Executive Office for United States Attorneys for resolution. Misconduct allegations against criminal investigative and law enforcement personnel in the Bureau of Prisons, the U.S. Marshals Service, and the Immigration and Naturalization Service (INS) are usually referred to the Office of the Inspector General, which investigates such matters on behalf of the Office pursuant to a memorandum of understanding.

Misconduct allegations against employees of the Federal Bureau of Investigation (FBI) and Drug Enforcement Administration (DEA) are investigated respectively by the FBI's Office of Professional Responsibility and DEA's Office of Professional Responsibility. The Office oversees and monitors the operations of these internal inspection units through personal contacts and monthly reports submitted by those units on the status of their investigations.

^{2/}The investigation of misconduct allegations involving employees not employed in attorney, criminal investigative, or law enforcement positions is the responsibility of the Department's Office of the Inspector General.

^{3/}The Office is not responsible for imposing disciplinary action in instances where misconduct is found. The disciplinary function is the responsibility of appropriate management officials in the Department. Disciplinary actions described in this report are included for informational purposes only.

III. OPERATIONS OF THE OFFICE

A. Investigations by the Office

During the nine-month period, the Office opened 293 matters involving allegations of misconduct against Department employees. A total of 119, or 41%, of these matters involved misconduct allegations against Departmental attorneys. The Office closed 181 matters during the period.

The sources of misconduct complaints received during the period are set out in the table below. The figures in the listed categories are generally consistent with previous experience on a percentage basis.

Sources of Misconduct Complaints

<u>Source</u>	<u>Number of Complaints</u>	<u>Percent of Total</u>
Department components & employees	147	50%
Private Parties	75	26%
Private Attorneys	19	6%
Inmates	19	6%
Anonymous sources	17	6%
Judges/courts	5	2%
Other sources (including bar associations and other agencies)	11	4%

The subject matter of misconduct complaints and the proportion of complaints falling into certain broad categories are set out in the table below.

Subject Matter of Misconduct Complaints

<u>Alleged Misconduct</u>	<u>Number of Complaints</u>	<u>Percent of Total</u>
Criminality	124	42%
Abuse of prosecutorial or investigative authority	39	13%
Unprofessional or unethical behavior	22	8%
Unauthorized release of infor- mation (other than grand jury or classified information)	18	6%
Physical abuse, harassment, and mistreatment of prisoners or detainees, threats	14	5%
Misuse of position, negligence, and improper performance of duties	14	5%
Other allegations (e.g., misuse of government vehicles, travel voucher abuse, improper asso- ciations, credit card misuse, failure to pay taxes, etc.)	62	21%

During this nine-month period, there was a decrease from the previous reporting period in the percentage of matters falling into the categories "Abuse of prosecutorial or investigative authority" and "Unprofessional or unethical behavior." These categories included allegations of prosecutorial misconduct or unethical conduct against Departmental attorneys, as well as allegations of investigative abuse and unethical conduct on the part of criminal

investigators. Of the 61 matters reported in these two categories, 54 involved allegations against Departmental attorneys.^{4/}

Allegations of misconduct were substantiated in 17, or about nine percent of the matters closed during the period. In five other cases the subject resigned or retired prior to the completion of the investigation or the imposition of discipline.

B. Investigations Directed or Monitored by the Office

During the January 1, 1991 to September 30, 1991 period, the Office continued to direct and monitor misconduct investigations conducted by agents of the Office of the Inspector General (OIG). These investigations involved misconduct allegations against criminal investigative and law enforcement personnel in the Bureau of Prisons, the U.S. Marshals Service, and INS, which fall within our Office's jurisdiction. The Office oversees these matters through procedures implemented pursuant to a memorandum of understanding executed by the Counsel and the Inspector General. The procedures include prompt notification that an investigation has been initiated, consultation with OPR attorneys regarding various investigative steps, and the submission of monthly reports to the Office on the status of the investigations.

^{4/}The 54 cases in these two categories constituted 45% of all complaints against Department attorneys during the period.

For case tracking purposes, the OIG categorized these matters either as "investigations" or "referrals." Investigations were matters directly investigated by OIG agents; referrals were matters referred by the OIG to the component agency of the subject employee for investigation and disposition.^{5/} Generally, investigations involved allegations of criminal or serious administrative misconduct, while referrals involved less serious allegations of administrative misconduct.

Statistical data covering these categories of cases for the January 1, 1991 to September 30, 1991 period were provided by the OIG and are reported below.^{6/}

Investigations

Cases opened	103
Cases closed	132
Cases pending 9/30/91	166

Referrals

Cases opened	569
Cases closed	295
Cases pending 9/30/91	624

During the period, the Office also monitored a total of 1202 misconduct investigations conducted by the Offices of Professional

^{5/}The OIG previously classified investigations as "Category I" cases and referrals as "Category II" cases.

^{6/}Data for the investigations category include matters handled jointly by the Office and OIG.

Responsibility in the FBI and DEA. These matters involved allegations of misconduct against FBI and DEA personnel. Monitoring was accomplished through frequent personal and written contacts with agents in those offices and monthly reports submitted to the Office.

C. Examples of Misconduct Investigated

Representative examples of misconduct investigations are set out below.

(1) A United States Attorney reported to the Office that an Assistant U.S. Attorney handling a major gambling and racketeering case had abruptly resigned and had accused him and the chief of the criminal division of "selling out" to defense counsel. The resigning prosecutor claimed that changes made by the U.S. Attorney and the criminal division chief to a count in the proposed indictment under the Racketeer Influenced and Corrupt Organizations Act (RICO) had effectively gutted the case. The ensuing investigation determined that the changes to the proposed indictment were the result of properly exercised prosecutorial discretion. It was also determined that there was no evidence of an improper relationship between the U.S. Attorney or criminal division chief and defense counsel. It was concluded that the allegations were unsubstantiated. The case was later successfully prosecuted.

(2) Information was received by the Office that an attorney in a litigating division may have been involved in the theft of his own expensive automobile. The subsequent investigation disclosed that the attorney, who had purchased the automobile from a cooperating witness, had arranged to have a friend fake the theft of the automobile. The attorney later submitted a false insurance claim for the loss. The attorney resigned from the Department during the course of the investigation and later pled guilty to one count of conspiracy to commit fraud. He received a sentence of four months in prison and four months of home detention.

(3) The Office initiated an investigation after a source provided information indicating that an attorney in a litigating division may have provided a false statement during his FBI background investigation. The information obtained from the source indicated that the attorney was a frequent user of marijuana during law school. In a statement provided for his background investigation, the attorney had stated that he only experimented with marijuana approximately six times between his freshman year in college and his completion of law school. The attorney was confronted with the allegations and shortly thereafter resigned from the Department.

IV. OPERATIONS OF THE INTERNAL INSPECTION UNITS

As noted in Section I of this report, 28 C.F.R. §0.39a(i)(3) provides that this Office shall submit to the Attorney General an annual report "reviewing and evaluating" the activities of the internal inspection units of the components of the Department. The regulation further provides that where there are no such inspection units, the Office should report on "the discharge of comparable duties within the Department." Since the effective date of the Inspector General Act amendments, this Office has limited the reporting under its review and evaluation function to the Offices of Professional Responsibility in the FBI and DEA. This is because the former internal inspection units in the Bureau of Prisons, the U.S. Marshals Service, and INS, the units responsible for investigating misconduct allegations against employees of those agencies, were subsumed into the OIG.

The data previously set out regarding OIG referrals confirms information previously received by this Office that substantial numbers of misconduct allegations are being referred back to component agencies for investigation and disposition. These referrals from the OIG involve the Bureau of Prisons, the U.S. Marshals Service, and INS. As a result of this trend, each of these components has either re-established, or is in the process of re-establishing, internal inspection units in order to investigate these referrals. In view of this development, this Office will in the future monitor the activities of these units pursuant to its responsibility to oversee the activities of the Department's internal inspection units on behalf of the Attorney General.

During the period covered by this report, the Office continued its oversight of the operations of the Offices of Professional Responsibility at the FBI and DEA. A report on the activities of those offices follows.

A. Federal Bureau of Investigation, Office of Professional Responsibility

The Office of Professional Responsibility at the FBI (FBI/OPR) was created in 1976 with the responsibility for investigating misconduct allegations against FBI employees. The office is located in the Bureau's Inspection Division. During the January 1, 1991 to September 30, 1991 period, the office opened a total of 414 matters involving allegations of misconduct against FBI employees.

The office closed 417 matters and there were 516 matters pending at the end of the reporting period.

During the covered period, allegations of misconduct were substantiated (or other misconduct was found) in 245 of the cases closed. A total of 175 employees were disciplined for serious misconduct and 46 employees resigned before completion of the investigation or the imposition of discipline. A total of 13 employees were dismissed from the rolls of the FBI as a result of FBI/OPR investigations.

After an increase in staff in 1990^{2/}, FBI/OPR maintained its professional staffing level at 10 full-time employees during the period. The professional staff is composed of one Inspector/Deputy Assistant Director, one unit chief, and eight supervisory special agents. The office also employed two clerks on temporary assignment to assist with file management.

During the reporting period, FBI/OPR continued to implement an extensive computer modernization program which was initiated in 1990. The program has resulted in increased efficiencies in data input, retrieval, and statistical reporting of FBI/OPR data. A corollary of the modernization program has been the implementation of a system which allows the retrieval of indices and case informa-

^{2/}In 1990, the office increased the number of senior agents assigned to the office from five to eight.

tion from various field divisions and Headquarters divisions by FBI/OPR personnel.

The office also established a quality review team to analyze office procedures such as file maintenance and case tracking. The team also reviewed the overall investigative process with an emphasis on thoroughness and timeliness. A recent analysis by the team found that the timeliness of FBI/OPR investigations had improved, as reflected by a significant increase in the number of matters referred to the Bureau's Administrative Summary Unit for adjudication within 120 days.^{8/}

During the reporting period, the office continued its program of providing ethics training in connection with management seminars and new agent classes. The office also initiated a long term study in concert with the Behavioral Sciences Unit at the FBI Academy to analyze trends in misconduct and assess the feasibility of forecasting susceptible individuals based on past profiles of behavior.

The most frequent categories of misconduct investigated by the office during the period included unprofessional conduct, employee

^{8/}Under the FBI's disciplinary system, FBI/OPR refers the results of its investigations to the Administrative Summary Unit, a component of the Bureau's Administrative Services Division. The Administrative Summary unit is responsible for the review, analysis and formulation of disciplinary recommendations with regard to all FBI employees, which are then referred to the appropriate FBI management official for final decision.

arrests, falsification of official records, misuse or loss of government property, unauthorized disclosure of information, and misuse of government vehicles.

Representative examples of misconduct investigated by the office during the period are as follows:

(1) The office received information that a special agent in an FBI field office had made false statements concerning his voucher submissions. The ensuing investigation included an extensive review of the agent's travel voucher submissions, receipts for business-related expenses paid from the FBI field support account, living expense allowances and private lease agreements. The investigation established that the special agent had misappropriated government funds and falsified official FBI records. The investigation also established that the subject had submitted numerous false certification statements claiming contacts with sources of information. After the special agent resigned from the FBI, he was indicted and subsequently pled guilty to three counts of making false statements. He was sentenced to three years of probation, a \$400 fine, and was required to pay restitution.

(2) FBI/OPR received information indicating that a special agent may have had a conflict of interest in connection with a decision not to initiate an investigation. The inquiry disclosed that the agent had received information from a corporate security officer which may have provided sufficient predicate for the opening of a foreign counter-intelligence investigation. The inquiry further disclosed that the agent failed to open the investigation because the principal subject, as well as other individuals implicated, were members of the agent's church. The special agent communicated the information to a high official in the church, but did not advise his superior about the allegation. The special agent received a letter of censure and was suspended for two weeks for lack of candor and for displaying poor judgment in not recognizing an obvious conflict of interest issue.

(3) An FBI employee made allegations of sexual harassment against three agents of an FBI field office. The ensuing investigation substantiated the allegations against two of the agents. However, it was determined that the agent who conducted the sexual harassment investigation was himself intimately involved with the employee making the allegations. The two agents involved in the sexual harassment of the employee each received a letter of censure and six months of probation. The agent who conducted the investigation received a letter of censure.

(4) Information was referred to the office which indicated that an FBI impostor clerk may have stolen money from a field office impostor account. The resulting investigation established that the employee had embezzled over \$400,000 from the account over a period of five years. When confronted, the employee admitted to the theft and was dismissed from the FBI. He subsequently pled guilty to five counts relating to the theft and was sentenced to 46 months incarceration followed by three years of probation. The plea agreement required the defendant to make full restitution and included the forfeiture of his apartment, his personal residence, two automobiles, savings bonds, his retirement account and his accrued annual leave.

B. Drug Enforcement Administration, Office of Professional Responsibility

The Office of Professional Responsibility at DEA (DEA/OPR), which marked its ninth year of operation during the reporting period, is responsible for investigating misconduct allegations against DEA employees. The office, which is a component of DEA's Planning and Inspection Division, completed a reorganization during this period. Under the reorganization, an Associate Deputy Assistant Administrator position was created and filled, and three teams of inspectors in DEA Headquarters were created with each team supervised by a senior inspector. The office also hired a program

analyst with a background in computers and updated its automated case tracking software.

As part of the reorganization, DEA/OPR opened field offices in Los Angeles and Miami. The Los Angeles office is staffed with a senior inspector in charge and two inspectors. The Miami office is staffed with a senior inspector in charge and three inspectors. DEA/OPR believes that the field offices will improve efficiencies by having an office presence in locations where a large number of misconduct allegations arise.

During the period, the office opened 223 matters involving allegations of misconduct, closed 147 matters, and there were 122 matters pending as of September 30, 1991. DEA/OPR reported that misconduct allegations were substantiated in 39 cases, and a total of 46 employees were disciplined for serious misconduct. In six cases the subject of the allegations resigned or retired before completion of the investigation or the imposition of discipline. Disciplinary actions included five removals and six cases involving suspensions of 30 days or more.

During the period, DEA completed the implementation of its Integrity Assurance Program, which was formally established by the DEA Administrator in April, 1991. The agency-wide program, which is managed by the Planning and Inspection Division, complements existing DEA programs by highlighting DEA management's emphasis on

integrity-related issues. An integral part of the program is establishment of the position of Integrity Assurance Program (IAP) Facilitator within the Planning and Inspection Division. The IAP Facilitator is responsible for strengthening and maintaining the integrity program by chairing a panel which will conduct post-event analyses of integrity cases, conducting liaison with other agencies on integrity-related policy issues, developing curricula and training programs for employees at all levels within the agency, and overseeing the publication of a monthly integrity assurance newsletter designed to highlight problem areas. The initial newsletter was issued in August, 1991 and focused on integrity problems that can arise from special agent-informant relationships.

The most frequent types of misconduct investigated during the year included unprofessional conduct, theft, unauthorized disclosure of information, misuse of government property, false statements, and improper relationships with informants.

Representative examples of misconduct investigated by the office during the period are as follows:

(1) The office received information that a special agent had sold DEA investigative reports to individuals outside the government. The ensuing investigation, which included the use of wiretaps and polygraph examinations, substantiated the information and also revealed that the agent was involved in the distribution of cocaine. The agent was indicted on charges of conspiracy to defraud the government, the sale of confidential information, and distribution of cocaine. He subsequently pled guilty and received a nine-year prison sentence, three years of probation, and a \$25,000 fine.

(2) DEA/OPR received information that an intelligence analyst was providing information to his mother-in-law, who was involved with known narcotics traffickers. It was also alleged that the intelligence analyst had provided government credentials to an informant in exchange for money. After registering deception on a polygraph examination, the employee admitted to relaying computerized law enforcement information to the mother-in-law and other individuals. It was also established that the employee had sold the government credentials. During the investigation, a number of sensitive DEA documents and computer printouts were recovered from the residence of the employee's former wife. Prosecution was precluded due to the tolling of the statute of limitations. The employee resigned prior to the initiation of disciplinary proceedings.

(3) After DEA determined that certain seized funds should to be returned to a criminal defendant, DEA was unable to locate the money. During the ensuing investigation, the special agent who had been assigned to the criminal case attempted to have a confidential informant return the money. The investigation later established that the special agent had converted the money to his own use. The agent was indicted on charges of embezzlement and making false statements during an interview. Although the agent was subsequently acquitted of the criminal charges, he was dismissed from DEA for lack of candor, notoriously disgraceful conduct, improper association with an informant, and failure to follow instructions.

V. CONCLUSION

Overall, employees of the Department of Justice performed their responsibilities in accordance with the professional standards expected of the nation's principal law enforcement agency. During the period, the Offices of Professional Responsibility in the FBI and DEA effectively performed their integrity related responsibilities within their respective components. Both

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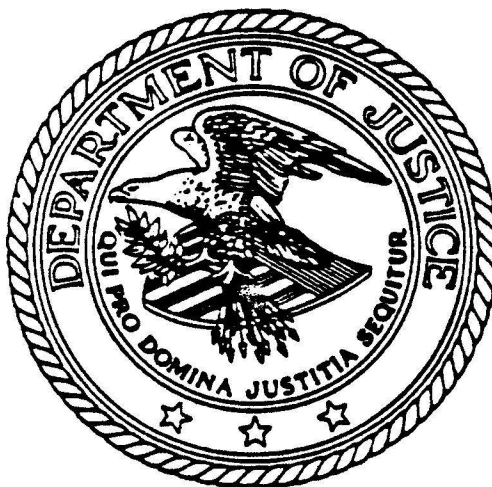
offices continued to improve efficiencies through increased computerization and other management initiatives.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Shaheen Jr.', with a stylized flourish at the end.

Michael E. Shaheen Jr.
Counsel

DOJ EXECUTIVE SECRETARIAT CROSS-REFERENCE RECORD



CONTROL NUMBER: 92120217240

TERWILLIGER, GEORGE J III, DAG

THE ENTIRE DOCUMENT PACKET FOR THE CONTROLLED
CORRESPONDENCE INDICATED BY THE ABOVE EX.SEC.
CONTROL NUMBER HAS BEEN FILED IN THE FOLLOWING
PRIMARY FILE LOCATION WITHIN THE SUBJECT FILES
OF THE ATTORNEY GENERAL.

PRIMARY FILE: OFFICE OF INSPECTOR GENERAL

19 November 1992

DOJ EXECUTIVE SECRETARIAT CROSS-REFERENCE RECORD



CONTROL NUMBER: 92120217204

GLENN, JOHN, SENATOR

THE ENTIRE DOCUMENT PACKET FOR THE CONTROLLED
CORRESPONDENCE INDICATED BY THE ABOVE EX.SEC.
CONTROL NUMBER HAS BEEN FILED IN THE FOLLOWING
PRIMARY FILE LOCATION WITHIN THE SUBJECT FILES
OF THE ATTORNEY GENERAL.

PRIMARY FILE: OFFICE OF INSPECTOR GENERAL

1 December 1992

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: SHAHEEN, MICHAEL E., JR., COUNSEL, OPR
To: AG. ODD: NONE
Date Received: 01-15-93 Date Due: NONE Control #: X92123118301
Subject & Date

12-01-92 MEMO RESPONDING TO THE INSPECTOR GENERAL'S
NOVEMBER 25, 1992, MEMORANDUM BY WHICH HE SEEKS TO APPEAL
THE NOVEMBER 19, 1992, DECISION OF THE DAG CLARIFYING THE
RESPECTIVE INVESTIGATIVE JURISDICTIONS OF OPR AND THE OIG.
EXPRESSES HIS BELIEF THAT THE DAG'S DECISION SHOULD BE
AFFIRMED IN ALL RESPECTS, W/ATTACHMENTS.
(SEE EXEC. SEC. 92120217240, 92120217204, 92123118299 AND
92123118300.)

	Referred To:	Date:	Referred To:	Date:	
(1)	OAG;FILES	01-22-93	(5)		W/IN:
(2)			(6)		
(3)			(7)		PRTY:
(4)			(8)		1S
	INTERIM BY:		DATE:		OPR:
	Sig. For: NONE		Date Released:		EHZ

Remarks

CC INDICATED FOR DAG.

EXEC. REC'D FROM OAG/LEVIN ON 01-15-93 FOR
CONTROLLING PURPOSES.

Other Remarks:

OLA CONTACT:

FILE: OFFICE OF PROFESSIONAL RESPONSIBILITY

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

1
DECEMBER 92



U. S. Department of Justice
Office of Professional Responsibility

Washington, D.C. 20530

December 1, 1992

MEMORANDUM FOR: THE ATTORNEY GENERAL

FROM: Michael E. Shaheen Jr. 
Counsel

SUBJECT: Response to the Inspector General's Appeal
from the Deputy Attorney General's Decision
Clarifying the Jurisdiction of OPR and OIG

This memorandum responds to the Inspector General's November 25, 1992 memorandum by which he seeks to appeal the November 19, 1992 decision of the Deputy Attorney General clarifying the respective investigative jurisdictions of OPR and the OIG. For the reasons set forth below, we think that the Deputy's decision is a sound one, that it is fully supported by the statute, that it is consistent with the authority of the Attorney General to manage the Department, and that it should be affirmed.

Before we address the merits of the Deputy's decision, we must respond to two points in the Inspector General's appeal memorandum

which we can only view as intentional misstatements. First, the Inspector General contends that the Deputy's decision is flawed because "it returns most investigations to the component where the misconduct occurred -- they will investigate themselves * * * ."^{1/} It was, however, the Inspector General who decided that it was appropriate for the components to investigate their own employees, and he should not now be asserting that result as a flaw in the Deputy's decision. The Inspector General would have you believe that his office actually investigates all of the allegations he receives. In fact, based upon the Inspector General's active encouragement, the Marshals Service and the Bureau of Prisons reestablished internal investigative units and INS is also moving in that direction.^{2/} Indeed, with respect to matters within OPR's jurisdiction -- involving criminal investigators and law enforcement personnel -- the Inspector General is referring some 90% of the allegations back to the Marshals Service and 93% back to the Bureau of Prisons for investigation and resolution. Moreover, when OPR learned of the fact that the Inspector General was simply

^{1/} Appeal memo at 2. That assertion is repeated on page 3 and on page 4.

^{2/} Strangely, the Inspector General now argues that reestablishing these internal inspection units is contrary to the legislative history of the Inspector General Act Amendments. Also of interest is the fact that the Inspector General has established a unit within his office to investigate allegations of misconduct against OIG employees even when the allegations are against OIG "criminal investigators" and are, therefore, within the statutory mandate that all allegations against the Department's criminal investigators be referred to OPR. Moreover, that practice raises at least the same issues of conflict of interest which the Inspector General asserts exist when the components "investigate themselves."

referring the cases back to those components for investigation, we proposed changes in the then-existing Memorandum of Understanding (MOU) to provide that with respect to cases falling within OPR's jurisdiction the components would report directly to OPR. It would then be OPR's decision regarding which cases would be handled by the components, which would be handled by OPR itself, and which would be sent to the FBI.^{3/}

Second, the Inspector General asserts that under the old MOU OPR's "attention to and supervision of cases being handled for it by OIG was nominal or sporadic at best."^{4/} In fact, OPR tried on numerous occasions to have the Inspector General recognize that the cases OIG handled for OPR were subject to OPR's direction and control. The Inspector General refused to accept that position and rejected OPR's attempts to control the investigation of cases within its jurisdiction. Although OPR had established a liaison relationship between its attorneys and the OIG's regional investigations offices, OPR has learned that the OIG discouraged regular contact between the field and OPR attorneys. Moreover, OIG provided little or no information to OPR regarding significant steps in the investigative process, thereby denying to OPR the ability to actively monitor its own caseload. Also, although OPR provided OIG with a number of "post-mortems" and other constructive criticisms

^{3/} This would provide at least the identical safeguards which the OIG has in place to avoid apparent conflicts of interest by referring allegations back to the components.

^{4/} Appeal memo at 3.

about its investigations, there was rarely any follow-up to those points by OIG. Finally, when OPR sought simply to have OIG discontinue investigating cases within OPR's jurisdiction in the Marshals Service and the Bureau of Prisons, OIG refused to follow the clear mandate of the statute and refer the allegations to OPR. In addition, the OIG continued its practice of non-communication with OPR regarding cases which OIG had no statutory basis to investigate. OPR raised this issue with the Deputy in April 1992, and his November 19, 1992 decision is a direct and proper result of the Inspector General's refusal to follow the statute he now so self-righteously embraces.

We next address the merits of the Inspector General's appeal. The Inspector General first takes issue with the "cumulative effect" of the Deputy's decision. In so doing, the Inspector General seeks again to revisit the decision which formed the basis for the Department's willingness to accept a statutory inspector general.

For many years, the Department resisted congressional imposition of a statutory inspector general on the Department. Principal among the reasons for its opposition was that a statutory inspector general dilutes the Attorney General's authority as the nation's principal law enforcement officer.^{5/} Since his arrival,

^{5/} For your convenience, attached are copies of our memoranda in opposition to the Inspector General's proposal to consolidate OPR into the OIG and in response to the Inspector General's refusal to follow the statutorily mandated assignment of jurisdiction (continued...)

and in stark contrast with his predecessor, the current Inspector General has been unwilling to accept the statutory split of jurisdiction and has sought to usurp the jurisdiction of OPR. When such usurpation reached the point that the Inspector General simply refused to follow the statute and refer to OPR those cases which the statute mandated that he refer, OPR was compelled to bring the matter to the Deputy's attention.

The Inspector General saw nothing wrong with his clear violation of the statute by usurping OPR's jurisdiction, but now he complains mightily when the Deputy makes a very reasonable decision which firmly rejects his usurpations and clearly defines the term "law enforcement position" by assigning to OPR all of the employees of the U.S. Attorney's Offices, the FBI, the DEA, and the U.S. Trustees.^{6/} He contends that the Deputy's decision took every "opportunity to reduce or undercut the OIG."^{7/} In fact, the Deputy's decision is simply a recognition of the jurisdictional

^{5/}(...continued)

tion. Those memoranda more fully explore the Department's rationale for insisting that Congress continue to allow OPR to conduct investigations involving the Department's attorneys and law enforcement personnel.

^{6/} The rationale for including those employees within the definition of a "law enforcement position" is fully spelled out in the Deputy's decision at page 3, nn. 1-3. We believe that the decision is proper and fully supported.

^{7/} Appeal memo at 1.

assignment which Congress made in the original legislation^{8/} and which this Inspector General has sought to circumvent ever since his appointment.^{9/}

The Inspector General also expressed his displeasure that the Deputy's decision "in every instance * * * divest[ed] the Office of authority to conduct misconduct cases."^{10/} That result is entirely

^{8/} The statute did not define the term "law enforcement position" in connection with the provision that mandates that the Inspector General "shall refer to the Counsel, Office of Professional Responsibility for investigation, information or allegations relating to the conduct of an officer or employee of the Department employed in an attorney, criminal investigative or law enforcement position * * * ." Accordingly, it is entirely proper for the Department to define that term.

^{9/} It is noteworthy that during the period when Anthony Moscato served as the Acting Inspector General there was a very close, cooperative relationship between OPR and OIG. When Mr. Hankinson assumed office there was a significant change in that relationship. Mr. Hankinson's tenure has been marked by a continuous reduction in the amount and timeliness of information provided by OIG to OPR concerning cases within OPR's jurisdiction, as well as a reduction in OIG's willingness to accept OPR's role in directing those investigations. This culminated in OIG's usurpation of OPR's jurisdiction when Mr. Hankinson refused to follow the statute and claimed as his own cases involving law enforcement personnel in the Marshals Service and the Bureau of Prisons. Also noteworthy in this regard is Mr. Hankinson's duplicity with regard to OPR. Soon after assuming office, Mr. Hankinson met with OPR and said he would never do anything "behind [OPR's] back." Shortly thereafter, without informing OPR, Mr. Hankinson sent a memorandum proposing the consolidation of OPR into the OIG to then Deputy Attorney General Barr.

^{10/} Appeal memo at 1. Of course, the Deputy's decision did not "divest the [OIG] of authority to conduct misconduct cases[;]" it simply required the Inspector General to obey the statute and to investigate only those misconduct cases within his statutory jurisdiction. Accordingly, the Inspector General never had any vested interest in the matters he now claims were taken from him. They were always within OPR's jurisdiction and were investigated by the OIG on OPR's behalf pursuant to an MOU. With the expiration of the
(continued...)

consistent with the fact, as explained above, that the Inspector General has usurped the investigative authority of OPR. The Deputy's decision simply restores the jurisdiction which OPR had and defines a term which the statute did not. That the definition results in an increase in the number of employees who fall within OPR's jurisdiction is simply a recognition that the Department's primary mission is law enforcement and that a substantial number of its employees are in "law enforcement positions." Again, the Inspector General does not recognize, or chooses to ignore, that Congress mandated the jurisdictional split which the Deputy's decision implements.^{11/}

Next, the Inspector General overlooks the fact that he put the question of the relationship between OPR and OIG into play in August of 1990 when, without notice to OPR, he proposed that OPR be consolidated into the OIG. The arguments which he presents now are no different from those which he raised in 1990. Accordingly, his apparent pique at not being consulted in advance is simply disingenuous. What he is really saying now is that, had he known he

^{10/} (...continued)

MOU and the Inspector General's refusal to return to OPR the matters within its jurisdiction, the Inspector General's interest in those cases was in the nature of a trespasser, and the Deputy properly instructed him to return the premises to the rightful owner.

^{11/} The Inspector General also expresses displeasure with the tone of the Deputy's decision (Appeal memo at 2). His perception of the tone of the memorandum is perhaps a result of his knowing avoidance of the statutory assignment of jurisdiction and his reaction to having been "caught with his hand in the cookie jar." Moreover, his perception is yet another example of his inability to accept his statutory jurisdiction.

would not prevail on the consolidation request, he would have negotiated concessions so he could have avoided being directed to follow the statutory mandate. He also overlooks that he further precipitated an examination of the relationship when he unilaterally decided to ignore the statutory mandate to refer cases to OPR and usurped its jurisdiction.^{12/}

In addition, the Inspector General contends that his office has been "gutted" because "every mover, shaker, doer, or decider has been taken from OIG and assigned to OPR."^{13/} The Inspector General again fails to recognize, or perhaps more accurately, refuses to acknowledge, that Congress mandated the jurisdictional split which the Deputy's decision implements. Moreover, he refuses to acknowledge that the leadership of the Department and its components are attorneys or criminal investigators because the mission of this Department is law enforcement. Congress specifically precluded the Inspector General from conducting misconduct investigations which involved the Department's law enforcement personnel by mandating that such investigations be conducted by OPR. If the Inspector General had accepted that at the outset and not made in-

^{12/} Again the Inspector General ignores that it was Congress that decided that the Department's Inspector General should not investigate certain classes of misconduct allegations regardless of the fact that he was presidentially appointed or that he had some measure of independence. Moreover, cumulatively the Deputy's decision does not take proper responsibility away from the Inspector General. Rather, it does nothing more than to direct the Inspector General to follow the law he took an oath to uphold.

^{13/} Appeal memo at 2.

cursions into OPR's jurisdiction, he would not now be in the position of having to explain to his own staff why jurisdiction which he assumed without proper authority is being returned to its rightful owner.^{14/}

The "bullet points" which the Inspector General makes under this argument are also without merit. First, the Attorney General's approval of an expansion of the OIG based on increased corruption activity within INS is not a basis for deciding that the statutory assignment of jurisdiction should be abandoned.^{15/} OIG never had jurisdiction over all Border Patrol Agents and all law enforcement personnel in INS. That has always been OPR's jurisdiction. OIG exercised OPR's jurisdiction over such employees pursuant to the then-existing MOU, and it continued to exercise *ultra vires* jurisdiction over those employees when it refused to agree to the revised MOU and the then-existing MOU expired. Now the Inspec-

^{14/} The Inspector General's assertion that the Deputy's decision "is not good government" is presumptuous and is equally flawed. Had the Inspector General simply followed the statute which Congress enacted, there would never have been a need for this issue to be raised. Good government would demand that its officers and employees follow the law and not seek to do indirectly what they cannot do directly.

^{15/} At the time that the increase was approved, INS did not have in place an effective mechanism to accomplish internal investigations. Moreover, OPR recognized the need to continue to utilize OIG investigators to address the serious corruption problems within INS. When OPR sought the return of its jurisdiction in the Marshals Service and the Bureau of Prisons, it specifically recognized in the proposed MOU it forwarded to the Inspector General that the OIG would continue to investigate allegations of misconduct against non-attorney law enforcement personnel within INS (see, attached proposed MOU at ¶ 2.C.(2)).

tor General seeks to justify retention of "stolen property" merely because he has possession of it and because returning it would be embarrassing.

Second, OPR exercised investigative jurisdiction over all of the Department's employees from December of 1975 until April of 1989 without criticism.^{16/} During that period, working with the components' internal inspection units, it effectively monitored, supervised, directed, and conducted internal investigations within the Department. Given that premise, there simply can be no doubt that OPR can again assume responsibility for the investigations within its jurisdiction as set forth in the Deputy's decision.

Third, as we noted above, it is indeed ironic that the Inspector General uses as a basis to attack the Deputy's conclusion that OPR should retain its statutorily mandated jurisdiction a practice which he both condoned and has used repeatedly. OPR is at least as capable as the Inspector General in determining when an apparent conflict of interest suggests that a particular investigation should not be referred back to a component. Moreover, we have much greater experience monitoring, supervising, directing,

^{16/} The impetus for having a statutory inspector general in the Department resulted primarily from the perceived lack of independence of the Department's Audit Staff. Since its inception in 1975 until the Inspector General Act Amendments became effective in 1989, OPR monitored the integrity and professionalism of all of the Department's personnel. During OPR's existence, no one has challenged the thoroughness, the integrity, or the manner in which OPR carried out its responsibilities.

and conducting internal investigations in the Department than does any of the leadership of the OIG.

Finally, the Inspector General's assertion of the congressional purpose in enacting the assignment of jurisdiction is simply too narrow. There is no basis to conclude that Congress did not intend that the Department could not define the term "law enforcement position" to include other than sworn officers or agents. Moreover, as the Deputy decided, the primary function of the U.S. Attorney's Offices, the FBI and DEA is law enforcement, and each employee of those components supports the law enforcement effort. Similarly, the U.S. Trustees are significantly engaged in the litigation of bankruptcy cases and there is an ample basis to conclude that the primary purpose of the U.S. Trustees is the enforcement of the bankruptcy laws.

Next, the Inspector General states his clear intent to refuse to enter into any further MOU's with OPR.^{17/} Although this attitude is unfortunate and counter-productive, it is consistent with his past practice of seeking to ignore OPR. Indeed, it was the OIG which refused to allow OPR to direct or control investigations it conducted but which were within OPR's jurisdiction, and it was the OIG which restricted the amount of information provided to OPR about its cases and discouraged the relationship between OPR attorneys and OIG regional investigations offices. OPR will gladly

^{17/} Appeal memo at 3.

exercise full supervision over any and all cases which the OIG investigates pursuant to an MOU. However, OPR certainly has no intention of returning to a relationship whereby the Inspector General can claim that OPR has no authority to direct and control those investigations which are within OPR's jurisdiction but investigated by the OIG pursuant to an MOU. We are, however, prepared to work with an Inspector General (like the incumbent's predecessor) who will follow the law, recognize OPR's right to direct and control matters within its jurisdiction, and cooperate with our efforts in that regard.

The Inspector General also contends that the Deputy's decision "threatens the OIG's ability to conduct investigations that do not involve employee misconduct but involve grant and contract fraud and other deceptions aimed at the Department."^{18/} Assuming, *arguendo*, that the Inspector General has authority to conduct such external investigations,^{19/} he continues to reject the fact that the statute did not distinguish between investigations which were the result of a specific allegation and those which were discovered

^{18/} *Ibid.*

^{19/} There exists some doubt that the Inspector General may conduct substantive investigations of non-Department personnel. Indeed, the Office of Legal Counsel has opined that such investigations are beyond the authority of an inspector general and must be referred to an investigative agency with jurisdiction over the substantive offense. In addition, allowing the Inspector General to assume jurisdiction over all allegations of fraud would be in contravention of the statute with respect to allegations against Department employees in attorney, criminal investigative or law enforcement positions.

in the course of some other authorized OIG activity. The statute mandates that the OIG "shall refer [to OPR] for investigation, information or allegations relating to the conduct of [a Department attorney or law enforcement employee] that is or may be a violation of law, regulation, or order of the Department or any other applicable standard of conduct * * * ." Accordingly, if in the course of a fraud investigation the OIG discovers that a Department employee in an attorney, criminal investigative or law enforcement position "may be guilty of negligence or a dereliction of duty that allowed the fraud to succeed," OIG must refer the information or allegation to OPR.

It is insufficient to argue, as the Inspector General does, that because OPR does not have auditors or subpoena power,^{20/} it cannot conduct the investigation. First, the argument ignores the statutory requirement that the Inspector General "shall give particular regard to the activities of [OPR] * * * with a view toward avoiding duplication and insuring effective coordination and cooperation."^{21/} Second, the Inspector General again admits his unwillingness to work cooperatively with OPR. But nothing OPR has done since the arrival of the Department's Inspector General suggests that OPR is not willing to work with the Inspector General in cases

^{20/} OPR exercises its subpoena power through the grand jury process, an investigative tool not independently available to the Inspector General.

^{21/} Section 8D(b)(2) of the Inspector General Act of 1978 as amended by the Inspector General Act Amendments of 1988.

where there is overlapping jurisdiction. To the contrary, OPR is prepared to work with the OIG to the maximum extent feasible as long as the OIG acknowledges and respects OPR's jurisdictional mandate.

The Inspector General's assertion that the Deputy's decision is so contrary to the intent of Congress that congressional notification is required is plainly without merit. The Deputy's decision conforms precisely with the statute and is, therefore, entirely consistent with the congressional intent. The argument again demonstrates either the Inspector General's lack of understanding of, or refusal to acknowledge, the statute and the limited investigative role it provided for his Office. Indeed, the Department's Inspector General is unlike all of the other inspectors general, and Congress clearly intended that result by its enactment of the special provisions for this Department's Inspector General. While the Inspector General may wish that those provisions did not exist, Congress thought them important to preserve the Attorney General's authority as the nation's chief law enforcement officer. The result is not a diminished office with no power; it is an office precisely in conformance with the powers Congress assigned to it.

We turn next to the Inspector General's arguments with respect to the specific points of the Deputy's decision. First, the Inspector General contends that OPR's jurisdiction should be lim-

ited to the criminal investigators in the FBI and DEA and the attorneys in the U.S. Attorney's offices. In so doing, the Inspector General ignores the provision of the statute which gives OPR jurisdiction over law enforcement personnel other than "criminal investigators." It was entirely consistent with the statute, therefore, for the Deputy to conclude that all of the employees of the FBI, DEA, and the U.S. Attorney's offices occupy "attorney, criminal investigative or law enforcement positions." The Deputy's reasoning is set forth in his decision memorandum, and there is no need to repeat it here. Moreover, there is no requirement in the statute that a Department employee must make litigative or prosecutive judgments in order to fall under OPR's jurisdiction. If Congress had intended that result, it would not have drafted the statute so broadly. The Inspector General also raises the specter that the implementation of the Deputy's decision will vex Congress. As we have shown above, the Deputy's decision was entirely consistent with the statute, and the Department should not stand for the Inspector General's veiled threats to go to Congress because he is dissatisfied with the assignment of jurisdiction which Congress itself made.^{22/}

^{22/} It is interesting to note that the Inspector General has virtually never exercised jurisdiction over the non-agent personnel of the FBI and DEA. Those matters are routinely handled by the Offices of Professional Responsibility in the FBI and DEA. Indeed, OPR makes all of the initial prosecutive determinations for all personnel in the FBI.

Next, the Inspector General quarrels with the Deputy for using the well accepted and easily understood definition of an "attorney" as an employee who has been admitted to the Bar. As we have noted, the Inspector General misreads the statute by contending that Congress intended to exclude some of the Department's attorneys from the definition of "attorney." It is sheer nonsense to contend that the leadership of the Department, though they are admitted to the Bar and consider themselves as attorneys within the common meaning of that term, are nevertheless not "attorneys" because they "have been promoted to management positions."^{23/} Although we reject the Inspector General's assertion that Congress required an examination of the type of judgments which an attorney-employee makes to determine whether that attorney-employee is an "attorney" for the purposes of the statute, even assuming that analysis is required, the Inspector General's argument fails. Every attorney in the Department makes judgments which affect current or prospective investigations, litigation, and prosecutions. If the Attorney General exercises his discretion to allocate resources in a particular manner, if he determines that a particular type of case should receive higher priority, if he directs that FBI agents be reassigned from foreign counter-intelligence to criminal investigative duties, he is exercising discretion which impacts upon the investigation, litigation, and prosecution functions of the Department. Similar analysis holds true for Assistant Attorneys General, Deputy

^{23/} Appeal memo at 4.

Assistant Attorneys General, Section Chiefs and other attorney-managers in the Department.

The next point which the Inspector General attempts to make -- that because of OPR's size it cannot possibly manage the investigations which fall within its jurisdiction -- is also totally without merit. We have addressed that contention *supra*, and we will not repeat the argument in detail. Suffice it to say that OPR is fully prepared to utilize resources that are available to it to properly discharge its responsibilities under the statute. Moreover, the Inspector General, as previously discussed, is presently referring back to the Marshals Service and the Bureau of Prisons at least ninety percent of the allegations he receives. OPR expects to make similar use of the Inspector General-approved reconstituted internal inspection units, but it will not have the components investigate any matter in any instance in which OPR believes an actual or apparent conflict of interest would result. The Inspector General does not even provide such safeguards with respect to allegations against his own staff.

The Inspector General again raises the question of fraud investigations and contends that the Deputy's decision has undermined his absolute authority to conduct such investigations "involving the Department's contracts, grants, and other disbursements to outside parties." The Deputy's decision does not address, and therefore does not affect, the Inspector General's authority to conduct

otherwise authorized investigations of non-Department personnel arising from the Department's grant, contract, or disbursement authority. This is a non-issue.^{24/}

Finally, the Inspector General expresses his concern that the Deputy's decision will be used to challenge his authority to conduct audits and inspections within the Department. The Deputy's decision addressed only the jurisdiction of the OIG and OPR to conduct "investigations." Inspections and audits were not specifically addressed. We believe that there was no need to address such inspections and audits because they were clearly beyond the scope of the Deputy's decision. The decision did provide for the Inspector General to conduct "program reviews" within the Department because such "program reviews" might be viewed by some as an "investigation" rather than an audit or an inspection. No further clarification is needed to ensure that the Inspector General may continue to conduct audits and inspections.

Based upon the foregoing, the Deputy's decision is supported by and consistent with the statute. It is a rational and long-needed resolution of the Inspector General's usurpation of the

^{24/} As we have previously discussed, once a Department employee is implicated, the assignment of jurisdiction mandated by the statute as implemented by the Deputy's decision determines which entity -- OPR or OIG -- will investigate the allegation of misconduct. OPR has consistently taken the position that it is prepared to work with the OIG, as it does with all other components of the Department, to ensure that the allegations are resolved while preserving criminal and/or civil remedies which are available to the Department with regard to the underlying matter.

jurisdiction which Congress assigned to OPR. The points which the Inspector General makes in opposition to the decision are, as we have shown, without merit, and the Deputy's decision should be affirmed in all respects.

Attachments

cc: George J. Terwilliger III
Deputy Attorney General

The Inspector General's Proposed
Consolidation of the Office of
Professional Responsibility into
the Office of the Inspector General

William P. Barr
Deputy Attorney General

Michael E. Shaheen Jr.
Counsel
Office of Professional
Responsibility

Your request of October 22, 1990, sought our reaction to the Inspector General's proposal and our views on the unresolved and disputed jurisdictional issues.

Our immediate reaction to the Inspector General's merger proposal is that he entirely misunderstands the important policy and constitutional underpinnings which caused the Department to oppose a statutory inspector general for ten years. Moreover, he fails to recognize that Congress accepted the Department's position and concluded that the Department's mission as a law enforcement agency made it quite different from all of the other executive branch agencies. Congress recognized the importance of preserving the Attorney General's authority as the nation's chief law enforcement officer and accepted OPR's long-standing exemplary record as the Department's primary internal investigative unit. To achieve that result, as well as to allow the Inspector General to concentrate on areas traditionally related to the

detection and prevention of waste and abuse, Congress specifically provided two restrictions on the powers of the Department's Inspector General: the limitation of his investigative jurisdiction and the authorization of the Attorney General to prohibit the Inspector General from carrying out audits and investigations which would have put at issue the Attorney General's law enforcement or litigative discretion.

The Inspector General's merger proposal seeks to achieve a result which both the Department and Congress had previously thoroughly considered and rejected. Set forth below is a more detailed discussion of the Inspector General's proposal and our views on the jurisdictional issues.

The Inspector General's Merger Proposal

The Inspector General (IG) proposes that the Office of Professional Responsibility (OPR) be merged into the Office of the Inspector General (OIG).^{1/} The proposal is based upon three premises: first, to end confusion over the jurisdictional split between OPR and OIG, second, to relieve administrative burdens on the OIG staff, and third, to save perceived costs associated with the surrender of 20 investigative positions to OPR. In our view,

^{1/} The Inspector General also makes an alternative proposal which would transfer to the OIG all of OPR's jurisdiction over criminal investigators and other law enforcement personnel. The result of that proposal would be that OPR would remain independent of the OIG and would continue to review misconduct allegations against the Department's attorneys. We will discuss the IG's alternative proposal separately, following our discussion of his merger plan.

none of the articulated bases justify the potential damage to the Department which would result from allowing the IG to conduct investigations impacting upon the Attorney General's discretion to investigate, litigate and prosecute.

A brief historical review is instructive. From the enactment of the original Inspector General Act of 1978 until the 1988 amendments, the Department consistently opposed congressional attempts to impose a statutory inspector general. In each instance, the Department successfully argued that a statutory inspector general would dilute the Attorney General's authority as the nation's principal law enforcement officer. In addition, Congress accepted the Department's argument that it had in place an effective, independent, and highly regarded internal investigative agency in OPR. Moreover, the Department was always concerned that the reporting requirements which Congress imposed on statutory inspectors general was inconsistent with the Department's needs to safeguard sensitive law enforcement, investigative and prosecutive information. In accepting OPR as the internal inspection unit for the Department's law enforcement and litigation operations, Congress also accepted the Department's concerns with information security. Accordingly, Congress did not impose upon OPR any of the congressional reporting requirements which it mandated for statutory inspectors general. A re-

sult of the Inspector General's merger proposal would be to subject all of the Department's internal investigations to unrestricted congressional review.^{2/}

In 1988, focusing primarily upon apparent weaknesses in the "independence" of the Department's Audit Staff,^{3/} Congress renewed its effort to impose a statutory inspector general on the Department. After much discussion, the Department agreed to accept an inspector general, provided the IG was precluded from conducting investigations impacting upon the Attorney General's discretion to investigate, litigate, and prosecute. One result was the provision in the Inspector General Act Amendments of 1988 which preserved the Attorney General's authority through OPR to investigate allegations of misconduct involving attorneys, criminal investigators and other law enforcement personnel. Another was the provision which empowers the Attorney General to prohibit the IG from conducting audits or investigations which involve

^{2/} The Inspector General has clearly stated that he considers his closed investigative files to be completely available to Congress for review without redaction or other expurgation of sensitive information. OPR has consistently refused to permit Congress to have access to even our closed files. In response to appropriate congressional inquiries concerning OPR investigations, we have provided the requesters with an oral briefing.

^{3/} In our view, procedures existed to ensure that the Audit Staff was sufficiently independent; however, looking solely at organizational charts and reporting structures produced an appearance that the Audit Staff was too closely tied to the management of JMD to function as a sufficiently independent alternative to a statutory inspector general. Moreover, for many years the Department had told Congress that it would correct the perceived problems with the Audit Staff's independence, but it did not implement changes sufficient to satisfy Congress.

ongoing civil or criminal law enforcement activities, counter-intelligence operations, or other activities which would constitute a threat to national security.

In our view, any proposal which would abandon the Department's long-standing position on an unrestricted statutory inspector general^{4/} bears a heavy burden to demonstrate its necessity. Our review of the IG's proposal leads us to the conclusion that it falls far short of making such a case.

Principally because the IG believes that the jurisdictional split mandated by the statute creates confusion, he would have the Department fully subject itself to a statutory inspector general. We cannot accept the logic of that position. Merely asserting that various Department officials have at times "evidenced confusion over the ambiguities and complications encountered when determining whether OIG or OPR should be consulted or is responsible" for any particular matter suggests only that the jurisdictional split may not have been communicated with sufficient clarity, not that it has not been resolved or is inherently unworkable.^{5/} From our standpoint, we have not experienced the

^{4/} I.e., an inspector general not subject to both the jurisdictional and subject matter restrictions of section 8D of the 1988 amendments.

^{5/} Like every other component in the Department, we regularly receive correspondence and requests for information from Department officials and components, unrelated to the question of the jurisdictional split between OPR and OIG, which are more properly addressed to another office within the Department. We have never viewed those misdirected inquiries as an basis for merging, for
(footnote continued)

confusion to which the IG has referred. Virtually every Department official we have dealt with since the IG became operational has read and understood the simple guidance contained in the Attorney General's memorandum to all employees dated July 11, 1989, a copy of which is attached.

The IG argues further that the stature of his office is undermined by confusion which results from the jurisdictional split. We submit that it is not the jurisdictional confusion which the IG perceives as undermining the stature of his office, but the fact that Congress chose to limit his investigative jurisdiction to less than the entire Department.^{6/} As we noted above, the Department worked long and hard to limit the IG's jurisdiction, and his dissatisfaction with the result provides no basis to reverse the Department's long-standing position.

The IG also contends that the jurisdictional split creates a burden on his investigators, requiring separate file systems and reporting procedures. Assuming for the sake of argument that the

(footnote continued from previous page)
example, the Criminal Division into OPR. Moreover, it seems obvious that whenever a new component is created within the Department there will inevitably be some confusion regarding responsibilities, particularly when they were previously handled elsewhere in the Department.

^{6/} We note that the IG claims that he is the only statutory IG who does not have unrestricted authority. If by that the IG means that he is the only statutory IG whom an agency head can preclude from conducting certain investigations, he is wrong (see, e.g., section 8C of the 1988 amendments). If he means that he is the only statutory IG who must share jurisdiction without retaining oversight authority, he chooses to ignore that Congress specifically intended that result.

separate systems are burdensome, there are numerous ways short of a merger to eliminate that problem. The statute's solution to the problem -- the transfer of positions to OPR -- would unquestionably solve the problem, as would simply having OPR utilize the FBI to conduct its investigations. Other solutions are possible, all of which are consistent with the Department's need to preserve the Attorney General's authority as the nation's chief law enforcement officer.

The IG recognizes that both the Department and Congress agreed that there were areas of the Department's work which were beyond the bounds of scrutiny by a statutory inspector general. Nevertheless, the IG argues that because he believes Congress's definition of OPR's jurisdiction is vague, the Department should forego its congressional exemption from the statutory IG. We believe that contention is illogical and entirely without merit. Moreover, as we noted above, the jurisdictional question is not one which is incapable of resolution. Rather, it has been complicated by the IG's apparent refusal to accept the jurisdiction Congress assigned to his office.^{7/}

^{7/} For example, the IG claims jurisdiction over senior Department officials such as the Attorney General and the Director of the FBI, because they are "managers" and the Inspector General Act gives Inspectors General authority over allegations of waste and abuse, which the IG apparently concludes always implicates "managers." Assuming, arguendo, that the primary role of each Department official is that of a "manager," their management activities are directly related to the exercise of the law enforcement discretion with which they are vested. For example, if an allegation were made that giving priority to prosecution of a particular class of case was a waste of the Department's resources the IG would necessarily be reviewing the exercise of prosecution (footnote continued)

The IG next turns to the congressionally authorized transfer of 20 investigative positions to OPR, which he opposes principally because he favors his merger proposal. In addition, he concludes that it would be wasteful for him to transfer positions to OPR because OPR needs more than the 20 positions Congress authorized and because of the costs associated with such a transfer of positions.^{8/} Finally, the IG argues that OPR cannot adequately cover its responsibilities with the 35 investigators which OPR requested in its FY92 budget submission.^{9/}

We cannot accept the IG's position that because OPR needs more than 20 investigators to handle cases within its jurisdiction the Department should abandon its congressionally approved

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cutorial discretion of the Attorney General in making a "management" decision to give priority to that class of case. Such issues are precisely those which the Department and Congress excluded from the IG's purview.

^{8/} Costs involved include permanent change of station, office space and supporting equipment, training and travel.

^{9/} The 35 positions requested for FY92 included the 20 positions from the OIG and an additional 15 positions based upon OIG data regarding work years expended on OPR matters. The IG now disclaims the accuracy of the data in its first semiannual report which OPR used to estimate the number of investigative positions required. OPR has never sought to build an empire by stretching its request for investigative positions. Indeed, the entire history of this Office has been marked by maintaining a very small operation. In order to maintain the Department's exemption from investigations within its core functions by a statutory IG, OPR must now assume direct responsibility for internal investigations which were previously handled by the component internal inspection units under OPR's supervision. As a result, OPR must seek additional personnel. In so doing, we would accept whatever number of investigators are justified by well-documented statistics. Alternatively, we could implement other options which would permit us to exercise our jurisdiction while minimizing costs.

law enforcement exemption from the statutory IG. If, as we believe, the IG currently expends more than 20 workyears annually on OPR cases, then the IG should surrender the additional positions. If not, then OPR will accept the 20 investigators and carry out its mission.^{10/}

We likewise cannot accept the IG's premise that merger is appropriate because with only 20 positions OPR cannot "maintain a national coverage," as the OIG asserts it currently does. An examination of OIG's statistics demonstrates that, as far as OPR cases are concerned, they are almost entirely concentrated along the southern border from California to Texas.^{11/} Accordingly, we are confident that our mission can be accomplished without

^{10/} The IG also refers to his own problems with underfunding. We do not believe that such problems outweigh the Department's continued exemption of its law enforcement responsibilities from the scrutiny of the statutory IG. As an example, the IG expresses his concern over Administratively Uncontrollable Overtime (AUO) funding. If the OIG is no longer responsible for investigation of Department employees with law enforcement responsibilities, it could be argued that its agents no longer require law enforcement powers (which are not routinely given to other statutory IG investigative staff), including the necessity for and cost of AUO. Moreover, the type of corruption which the IG would continue to investigate (involving non-law enforcement personnel) but which might involve dangerous situations (e.g. payments to Immigration Inspectors to permit drug smugglers to pass a port of entry without inspection) are all within the primary jurisdiction of the FBI. Unquestionably, the FBI is fully capable of investigating such cases.

^{11/} These statistics include only those cases which OIG agents were investigating for OPR pursuant to the Memorandum of Understanding. We would continue to utilize a direct response from Washington for those matters which are traditionally investigated directly by OPR.

"national coverage" when the workload is so geographically concentrated. To attempt such "national coverage" in the face of that data would, indeed, be wasteful.^{12/}

Finally the IG argues that merger is appropriate because the legislative history of the Inspector General Act Amendments of 1988 approves of such. In our view, the insertion of such language was meant merely to assuage those in Congress who opposed the special provisions for the Department which protected the Attorney General's litigative and prosecutive discretion from unwarranted intrusion by the statutory IG. While it may be that elimination of OPR would be "consistent with the inspector general concept[,]" it is apparent that to do so would be wholly inconsistent with the long-standing interests of the Department.

The Inspector General's Alternative Proposal

The IG also proposes, as an alternative to the merger, a scheme whereby OPR would be limited to investigations of violations of the Code of Professional Conduct or similar ethical standards. While this proposal has some superficial appeal, it is too narrowly drawn to help to ensure that the Department's

^{12/} The IG does not define "national coverage," nor does he explain how "national coverage" furthers the mission of the OIG. We believe "national coverage" can be achieved without an actual presence in any particular geographic area given the state of the nation's transportation system.

interests in preserving its exercise of law enforcement discretion from unwarranted intrusion by the statutory IG are maintained.

Undoubtedly, the Department's prosecutors will be subject to an increasing assault from the private defense bar as the Department continues its aggressive investigation and prosecution of white collar and drug-related crime. As a result, OPR can anticipate an increased number of allegations of misconduct against Department attorneys. At first blush, it would seem that having OPR concentrate on allegations against attorneys would be an efficient utilization of the Department's resources. Such analysis ignores, however, the fact that many complaints arise during the investigation of criminal cases either by a grand jury or by an investigative agency. In such cases it is usually very difficult to separate the actions of the Department attorneys from the agents who are working closely with the attorney or, indeed, at the direction of the attorney. If OPR's jurisdiction is to be limited to the attorney ranks, then we will have come full circle to jurisdictional conflicts where the OIG is investigating the agent and OPR the attorney.^{13/}

^{13/} If there is a viable middle ground, it would give OPR exclusive jurisdiction over allegations of misconduct arising from the investigation, prosecution or litigation of any matter regardless of the employment position of the subjects of the investigation. Only then can the Department ensure that the exercise of law enforcement discretion remains beyond the scope of the statutory IG and also frees the IG to concentrate on traditional IG matters involving waste and abuse.

Jurisdictional Issues

You have also asked for our views on the extent to which there are unresolved jurisdictional issues under the current arrangement with the OIG.

Under the existing system, the jurisdictional issues are not particularly complex. As the statute clearly recites, OPR has jurisdiction over investigations of persons in attorney, criminal investigator, or other law enforcement positions. We believe that language is straightforward and not at all ambiguous. Accordingly, if the subject of an allegation is a Department attorney (including U.S. Attorneys and AUSAs), regardless of his or her status as a supervisor, jurisdiction lies with OPR.^{14/}

^{14/} The only real ambiguity or dispute over jurisdiction with respect to "attorneys" is the IG's apparent effort to assert jurisdiction over Department attorneys, including, presumably, U.S. Attorneys and their principal assistants, because of their supervisory status. Thus, the IG contends that whenever an attorney acts as a "manager" he or she becomes subject to the jurisdiction of the OIG. We believe that such contention is entirely spurious given the unambiguous and mandatory language of section 8D(b)(3) of the 1988 amendments.

Departmental attorneys in manager positions are managing the law enforcement and litigation activities of the Department. Their management activities have a direct impact upon the substantive prosecutive or litigative activity of the Department. Accordingly, they remain beyond the scope of the OIG. To support his argument, the IG can point to nothing other than general provisions of the IG Act which call upon the IGs to investigate allegations of waste and abuse. That argument overlooks, however, the very specific provision of the 1988 Amendments by which Congress unambiguously limited the jurisdiction of the IG for the Department of Justice: "The Inspector General of the Department of Justice -- * * * shall refer to the Counsel [OPR] for investigation, information or allegations relating to the conduct of an officer or employee of the Department of Justice employed in an

(footnote continued)

If the subject of an allegation is a "criminal investigator" the jurisdiction lies with OPR. We have agreed with the OIG that the Special Agents of the FBI, DEA, INS, and OIG as well as Inspectors in the U.S. Marshals Service fall within that statutory definition. There are no disputes over this definition; however, the IG again uses the "manager" argument to claim jurisdiction over the entire management structure of the FBI and DEA, and the management of the investigations side of INS. For reasons stated in our discussion of the "attorney" definition, we reject that argument, and we contend that such individuals are within the category of matters Congress intended to preclude the IG from investigating.

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attorney, criminal investigative, or law enforcement position that is or may be a violation of law, regulation, or order of the Department or any other applicable standard of conduct * * * ." Section 8D(b)(3) of Public Law 100-504, 5 U.S.C. App.

Moreover, the "classic illustration" used by the IG to demonstrate the ambiguity in the statute's use of the word "attorney" is entirely inapposite. OPR has never claimed that merely because an individual is an attorney by training he falls within OPR's jurisdiction. Rather we look to the work he performs -- does he act as an attorney for the Department or supervise directly attorneys for the Department.

Based upon that analysis, we have no difficulty concluding that Tony Moscato, an attorney, as Deputy Assistant Attorney General for JMD, does not fall within OPR's jurisdiction. By the same token, we have no difficulty concluding that the Attorney General, the Deputy Attorney General, the Solicitor General, the Assistant Attorneys General, their deputies and section chiefs in both the litigating divisions and the Department's Offices including the Office of Legal Counsel and the Office of Legislative Affairs, the United States Attorneys and their assistants, and the heads of independent offices within the Department such as the Office of Policy Development, Office of Intelligence Policy and Review, the Executive Office for U.S. Attorneys and the Executive Office for U.S. Trustees are within OPR's jurisdiction.

If the subject of an allegation is categorized as "other law enforcement personnel," jurisdiction lies with OPR. Basically, we believe that, with the exception of the IG's "manager" argument,^{15/} which we believe is equally inapplicable in this category, this definition is fairly well settled.^{16/} Thus, if the subject is a U.S. Marshal or a Deputy U.S. Marshal, a U.S. Border Patrol Agent, a Senior Immigration Inspector, an Immigration Detention Officer, a Deportation Officer, a DEA Compliance Officer, a Warden, Associate or Assistant Warden, or a Correctional Officer, the jurisdiction lies with OPR. The gray area which exists in this category is Immigration Inspectors. Those individuals often serve at ports of entry and, when cross-designated as Customs Inspectors, conduct searches which often lead to criminal prosecutions. We have not vigorously contested the OIG's assertion of jurisdiction over Immigration Inspectors and Supervisory Immigration Inspectors, although we believe that they are very close to being "law enforcement" personnel.^{17/} We have retained jurisdiction over Senior Immigration Inspectors because they are authorized to carry firearms and perform more of an investigative role than the other inspectors.

^{15/} Under his theory, the IG claims jurisdiction over the management structure of the U.S. Marshals Service and the Bureau of Prisons as well as the supervisory structure of the Border Patrol.

^{16/} We do not discuss here, for it is irrelevant for the purposes of disputes over the definition of "other law enforcement" personnel, the recent conclusion of the FBI's Legal Counsel Division that all FBI employees are "law enforcement" personnel.

^{17/} We have heard that the Immigration Inspectors are seeking formal designation as law enforcement personnel.

Conclusion

In our view, the IG has articulated no rational basis to merge OPR into the OIG. Indeed, a merger would constitute a major retreat from the hard-fought concessions the Department extracted from Congress in its long battle against the imposition of a statutory inspector general. The substantial impact upon the Department would undo years of success in protecting the Attorney General's exercise of discretion from investigation by a statutory inspector general. Moreover, such a step would remove an important safeguard against making the Department's investigation, prosecution, and litigation files readily available to the Congress, and thus to almost certain unauthorized disclosure.

The best solution to problems associated with having the OIG perform certain OPR investigations is to follow the statutory direction and assign to OPR an investigative staff. The jurisdictional issues can be resolved definitively, and the OIG can concentrate on the audit, inspection, and investigative areas assigned by Congress "without being distracted by OPR's primary responsibility for looking into questions of the integrity and professionalism of Justice Department personnel."^{18/}

We are available at your convenience to discuss this matter and to answer any questions which you might have.

^{18/} Inspector General Act Amendments of 1988, H.R. Rep. No 771, 100th Cong., 2d Sess. 9-10 (1988).



U.S. Department of Justice

Office of Professional Responsibility

Washington, D.C. 20530

April 23, 1992

MEMORANDUM

To: George J. Terwilliger III
Deputy Attorney General

From: Michael E. Shaheen Jr.
Counsel

Subject: The Inspector General's Refusal To Follow the Statutorily Mandated Directive To Refer Allegations of Misconduct against the Department's Attorneys, Criminal Investigators and Other Law Enforcement Personnel to the Office of Professional Responsibility

Pursuant to your request of April 23, 1992, this memorandum addresses the legal issues surrounding the limitations on the investigative jurisdiction of the Department's Inspector General as set forth in Section 8D (b) (3) of the Inspector General Act, 5 U.S.C. Appendix 3 § 8D(b)(3).

BACKGROUND

Without going into great detail, a brief historical review is instructive. Since the enactment of the original Inspector General Act of 1978, the Department annually opposed congressional attempts to impose a statutory inspector general. In each of those years, the Department successfully argued that a statutory inspector general would dilute the Attorney General's authority as the nation's principal law enforcement officer. In addition, Congress accepted the Department's argument that it had in place an effective, independent, and highly regarded internal investigative agency in OPR. Moreover, OPR has no congressional reporting requirements. The Department has always been concerned that the reporting requirements which Congress imposed on statutory inspectors general are inconsistent with the Department's needs closely to maintain sensitive law enforcement, investigative and prosecutive information.

In 1988, focusing primarily upon apparent weaknesses in the "independence" of the Department's Audit Staff, Congress renewed its effort to impose a statutory inspector general on the Department. After much discussion, the Department agreed to accept an inspector general provided the Inspector General was precluded from conducting investigations impacting upon the Attorney General's discretion to investigate, litigate, and prosecute. The result was the provision of the Inspector General Act Amendments of 1988^{1/} which preserved the Attorney General's authority through OPR to investigate allegations of misconduct involving attorneys, criminal investigators and other law enforcement personnel.

At the same time Congress preserved the Attorney General's authority in OPR to conduct investigations of alleged misconduct in the Department's law enforcement components, it took away the resources of the existing internal inspection units in the U.S. Marshals Service, the Bureau of Prisons, and the Immigration and Naturalization Service and incorporated them into the Inspector General's Office. Accordingly, while OPR was given the responsibility to conduct investigations within those components, it was not given the resources.^{2/} To address this problem, the Counsel,

^{1/} Section 102 (f) of the Inspector General Act Amendments of 1988 (Pub. L. No. 100-504, 102 Stat. 2515, 2520-2521 (1988)) added to the Inspector General Act of 1978 a new provision 8D entitled "Special Provisions for the Department of Justice." That section includes the following provision:

(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Justice --

* * *

(3) shall refer to the Counsel, Office of Professional Responsibility of the Department for investigation, information or allegations relating to the conduct of an officer or employee of the Department of Justice employed in an attorney, criminal investigative, or law enforcement position that is or may be a violation of law, regulation, or order of the Department or any other applicable standard of conduct, except that no such referral shall be made if the officer or employee is employed in the Office of Professional Responsibility of the Department.

^{2/} Congress provided that ninety days after the appointment of the Inspector General 20 investigative positions would be identified for transfer, in the Attorney General's discretion, to OPR to
(continued...)

OPR and the Acting Inspector General (Tony Moscato) signed a Memorandum of Understanding (MOU) on April 14, 1989.^{3/} The MOU was by its own terms designed to be an interim measure (it also was renewable every 45 days) until the Attorney General decided the resource allocation issue (MOU ¶ 2). The MOU recognized the statute's mandate that investigations of attorneys, criminal investigators and other law enforcement personnel were to be OPR's responsibility. The MOU amounted to only a partial delegation of OPR's authority under Section 8D(b)(3) to the Inspector General to conduct investigations in the USMS, the BOP, and the INS. Nonetheless, OPR retained its authority over such investigations which were to be "conducted under the direction and control of the Counsel, Office of Professional Responsibility" (MOU ¶ 2B).

On April 21, 1992, after discussions between the Deputy Counsel of OPR and the Deputy Inspector General, OPR sent to the Inspector General a revised MOU. The revised MOU provided that the Inspector General would refer all allegations of misconduct involving employees in criminal investigative and law enforcement positions in the U.S. Marshals Service and the Bureau of Prisons to OPR as mandated by the statute and would take no further action.^{4/} By memorandum dated April 22, 1992, the Inspector General refused to abide by the clear statutory mandate and stated that he would not refer allegations involving criminal investigators and law enforcement personnel in the USMS, BOP, and INS to OPR.^{5/}

DISCUSSION

In our view, the issues are clear. The Inspector General Act clearly assigns to OPR the authority to conduct investigations of misconduct allegations against the Department's attorneys, criminal investigators and law enforcement personnel. The statutory language in Section 8D(b)(3) is unambiguous and mandatory: "The Inspector General * * * shall refer to [OPR] for investigation, information, or allegations relating to the conduct of an officer or employee of the Department of Justice employed in an attorney,

^{2/}(...continued)
permit OPR to have the investigative resources to conduct those investigations in USMS, BOP, and INS formerly handled by the personnel of the respective internal inspection units.

^{3/} A copy of the Memorandum of Understanding is attached.

^{4/} A copy of the revised MOU is also attached.

^{5/} The revised MOU specifically authorized the OIG to investigate, on behalf of OPR, INS criminal investigators and law enforcement personnel. Unlike USMS or BOP, INS simply does not have in place at this time a mechanism which can adequately deal with the existing caseload.

criminal investigative or law enforcement position * * * (emphasis added)." Moreover, the MOU was never intended to divest OPR of its authority provided in Section 8D(b)(3). Rather, it was intended to provide an interim procedure to ensure that allegations of misconduct against criminal investigators and law enforcement personnel in USMS, BOP, and INS did not languish for lack of investigative resources. There is nothing in either the statute or the MOU which would prevent OPR from asserting its authority to insist upon the OIG referring to OPR for investigation pursuant to Section 8D(b)(3) all allegations against some or all of the personnel identified in that section. Accordingly, it is our position that the Inspector General is proceeding in derogation of the statute and he should be directed to comply with its terms forthwith.

We are available at your convenience to discuss this matter and to answer any questions which you might have.

cc: Jeffrey R. Howard
Principal Associate Deputy Attorney General

MEMORANDUM OF AGREEMENT REGARDING
CONDUCT OF INVESTIGATIONS

Pursuant to the Inspector General Act of 1978, P.L. No. 95-452, and the IG Act Amendments of 1988, P.L. No. 100-504, we hereby agree to the handling of those investigations which will be the responsibility of the Office of Professional Responsibility after the establishment of the Office of Inspector General on April 14, 1989, according to the following guidelines.

1. While the Inspector General is given a broad grant of jurisdiction for investigations of misconduct across the Department, he or she is also directed to refer allegations pertaining to attorneys, criminal investigators, and law enforcement personnel to the Counsel, Office of Professional Responsibility, for timely investigation in accordance with the Attorney General's expressed intent.
2. In order to accomplish our respective responsibilities and to conduct an orderly transition, the following interim procedures are established:

A. In lieu of a formal transfer or detail of investigative positions or personnel to the Office of Professional Responsibility, the Office of Inspector General will provide appropriate personnel and resources of the former internal investigative offices of the components to perform those investigations which fall within the purview of the Office of Professional Responsibility.

B. These investigations, though now utilizing the staff of the Office of Inspector General, will be conducted under the direction and control of the Counsel, Office of Professional Responsibility.

C. In cases where investigative priorities established by the Office of Professional Responsibility and the Office of Inspector General conflict, or appear to conflict, such conflicts will be resolved by consultation between the Office of Professional Responsibility and the Office of Inspector General.

D. The Office of Inspector General will establish rigorous control procedures to ensure that the case loads are properly distinguished and that the case files are properly controlled and secured.


E. In those cases in which subjects of investigations fall within both our jurisdictions, we will jointly agree upon the appropriate lead responsibility for investigation.

F. Where necessary, the Attorney General shall resolve any conflicts that arise between the Inspector General and the Counsel for Professional Responsibility under this agreement.

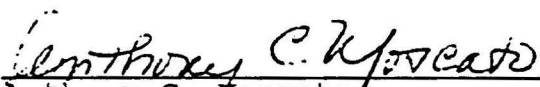
G. This agreement is subject to ratification, renegotiation or cancellation by either party upon the arrival of the permanent Inspector General.

These procedures will significantly minimize both the administration and management difficulties associated with the implementation of the new office and of our responsibilities, while also providing an important mechanism for coordination between our offices in order to maintain the highest integrity standards within the Department of Justice.

This agreement will take effect on April 14, 1989, and shall continue until May 31, 1989, unless extended or modified by mutual agreement.



Michael E. Shaheen, Jr.
Counsel
Office of Professional
Responsibility



Anthony C. Moscato
Acting Inspector General

Date: April 14, 1989

Date: April 14, 1989

MODIFICATION AND EXTENSION OF AGREEMENT REGARDING CONDUCT OF INVESTIGATIONS

By agreement of the parties, the Memorandum of Agreement Regarding the Conduct of Investigations, executed by the Counsel, Office of Professional Responsibility, and by the Acting Inspector General on April 14, 1989, as subsequently extended by additional agreements, is hereby further extended as modified below.

Pursuant to the Inspector General Act of 1978, P.L. No. 95-452, and the IG Act Amendments of 1988, P.L. No. 100-504, we hereby agree to the handling of those investigations which are the responsibility of the Office of Professional Responsibility according to the following guidelines:

1. While the Inspector General is given a broad grant of jurisdiction for investigations of misconduct across the Department, the Inspector General is also directed by the Inspector General Act Amendments of 1988 to refer allegations of misconduct pertaining to employees of the Department of Justice employed in an attorney, criminal investigative or law enforcement position to the Counsel, Office of Professional Responsibility, for timely investigation.

2. In order to accomplish our respective responsibilities and to efficiently use our resources, the following procedures are established:

- A. The Office of the Inspector General will provide appropriate personnel and resources to perform investigations that fall within the purview of the Office of Professional Responsibility.

- B. These investigations, though utilizing the staff of the Office of the Inspector General, will be conducted under the direction and control of the Counsel, Office of Professional Responsibility. In cases where the investigative priorities established by the Office of Professional Responsibility and the Office of the Inspector General conflict, or appear to conflict, these conflicts will be resolved by consultation between the Office of Professional Responsibility and the Office of the Inspector General.

- C. The following special conditions and terms apply to matters subject to the direction and control of the Office of Professional Responsibility involving allegations of misconduct against persons in attorney, criminal investigative and law enforcement positions:

- (1) Allegations concerning misconduct by a Department of Justice attorney shall be referred by the OIG to the Counsel, OPR, when received. The OIG will not open a case file or initiate an investigation unless specifically requested to do so by OPR.

- (2) Upon receipt of allegations concerning employees of the Immigration and Naturalization Service in criminal investigator and law enforcement positions, the

OIG may immediately open a file and initiate an investigation. [INS attorneys shall be handled pursuant to subparagraph (1), above.]

(3) Allegations concerning misconduct by an employee of the United States Marshals Service or Bureau of Prisons who is in a criminal investigator or law enforcement position, shall be referred by the OIG to the Counsel, OPR, when received. The OIG will not open a case file or initiate an investigation unless specifically requested to do so by OPR. [USMS and BOP attorneys shall be handled pursuant to subparagraph (1), above.]

D. For purposes of this agreement, "employees of the Department of Justice employed in an attorney, criminal investigative or law enforcement position" shall be determined according to the responsibilities held by the employee at the time the alleged offense or misconduct becomes known to the Department.


E. The Office of the Inspector General will establish rigorous control procedures to ensure that the case loads are properly distinguished and that the case files are properly controlled and secured.

F. In those cases in which subjects of investigations fall within both our jurisdictions, we will jointly agree upon the appropriate lead responsibility for investigation.

G. Where necessary, the Attorney General shall resolve any conflicts that arise between the Inspector General and the Counsel, Office of Professional Responsibility, under this agreement.

H. This agreement is subject to cancellation by either party or to modification by written agreement of both.

This agreement will take effect on the date of the last of the two required approvals and shall continue until modified or cancelled.

 4-21-92

Michael E. Shaheen Jr.
Counsel, Office of
Professional Responsibility

Richard J. Hankinson
Inspector General



U.S. Department of Justice


Office of Professional Responsibility

Washington, D.C. 20530

April 21, 1992

MEMORANDUM

TO: Richard J. Hankinson
Inspector General

FROM: Michael E. Shaheen Jr. 
Counsel

SUBJECT: Your April 15 Memorandum Regarding
Modification of the OPR/OIG MOU

This is in response to your memorandum of April 15, 1992, regarding a modification of the Memorandum of Understanding that has existed between our two offices since April, 1989. I agree that matters of such importance should not rely on conversations; that is why we gave Mr. Ashbaugh a written modification to the MOU. Mr. Ashbaugh, in turn, gave us some written suggested modifications. Upon review, we found his suggestions generally acceptable. Before these discussions were concluded, your memorandum was received.

Your April 15 memorandum in essence correctly sets forth our changes to the MOU. The changes need not be considered "worrisome" in any respect; they should streamline the process by which allegations of wrongdoing by USMS and BOP employees are handled and free additional OIG resources to be devoted to INS. Our changes also take into account the possibility that situations may arise that could be dealt with more effectively by the OIG, and it provides the flexibility to permit exactly that type of assignment.

The goal of our changes is to make the current system operate as effectively and efficiently as possible. I am sure you share this goal. Attached is a modification of the MOU which incorporates, with minor changes, Mr. Ashbaugh's suggestions.

MODIFICATION AND EXTENSION OF AGREEMENT REGARDING CONDUCT OF INVESTIGATIONS

By agreement of the parties, the Memorandum of Agreement Regarding the Conduct of Investigations, executed by the Counsel, Office of Professional Responsibility, and by the Acting Inspector General on April 14, 1989, as subsequently extended by additional agreements, is hereby further extended as modified below.

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2. In order to accomplish our respective responsibilities and to efficiently use our resources, the following procedures are established:
 - A. The Office of the Inspector General will provide appropriate personnel and resources to perform investigations that fall within the purview of the Office of Professional Responsibility.
 - B. These investigations, though utilizing the staff of the Office of the Inspector General, will be conducted under the direction and control of the Counsel, Office of Professional Responsibility. In cases where the investigative priorities established by the Office of Professional Responsibility and the Office of the Inspector General conflict, or appear to conflict, these conflicts will be resolved by consultation between the Office of Professional Responsibility and the Office of the Inspector General.
 - C. The following special conditions and terms apply to matters subject to the direction and control of the Office of Professional Responsibility involving allegations of misconduct against persons in attorney, criminal investigative and law enforcement positions:
 - (1) Allegations concerning misconduct by a Department of Justice attorney shall be referred by the OIG to the Counsel, OPR, when received. The OIG will not open a case file or initiate an investigation unless specifically requested to do so by OPR.
 - (2) Upon receipt of allegations concerning employees of the Immigration and Naturalization Service in criminal investigator and law enforcement positions, the

OIG may immediately open a file and initiate an investigation. [INS attorneys shall be handled pursuant to subparagraph (1), above.]

(3) Allegations concerning misconduct by an employee of the United States Marshals Service or Bureau of Prisons who is in a criminal investigator or law enforcement position, shall be referred by the OIG to the Counsel, OPR, when received. The OIG will not open a case file or initiate an investigation unless specifically requested to do so by OPR. [USMS and BOP attorneys shall be handled pursuant to subparagraph (1), above.]

D. For purposes of this agreement, "employees of the Department of Justice employed in an attorney, criminal investigative or law enforcement position" shall be determined according to the responsibilities held by the employee at the time the alleged offense or misconduct becomes known to the Department.

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H. This agreement is subject to cancellation by either party or to modification by written agreement of both.

This agreement will take effect on the date of the last of the two required approvals and shall continue until modified or cancelled.



4-21-92

Michael E. Shaheen Jr.
Counsel, Office of
Professional Responsibility

Richard J. Hankinson
Inspector General

DOJ EXECUTIVE SECRETARIAT CROSS-REFERENCE RECORD



CONTROL NUMBER: 92120217255

WISE, BOB, CONGRESSMAN

THE ENTIRE DOCUMENT PACKET FOR THE CONTROLLED
CORRESPONDENCE INDICATED BY THE ABOVE EX.SEC.
CONTROL NUMBER HAS BEEN FILED IN THE FOLLOWING
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OF THE ATTORNEY GENERAL.

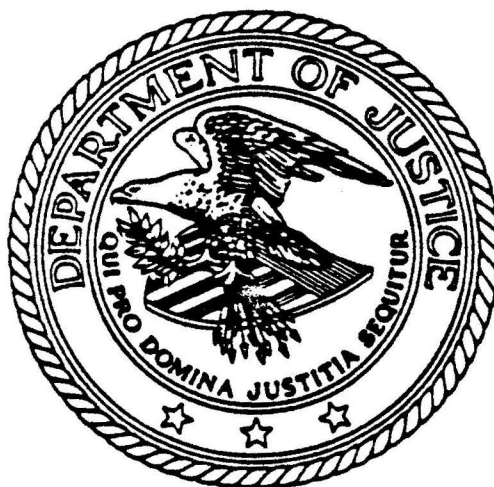
PRIMARY FILE: OFFICE OF INSPECTOR GENERAL

2 December 1992

OFFICE OF PROFESSIONAL RESPONSIBILITY

2 DEC 92

DOJ EXECUTIVE SECRETARIAT CROSS-REFERENCE RECORD



CONTROL NUMBER: 92121017578

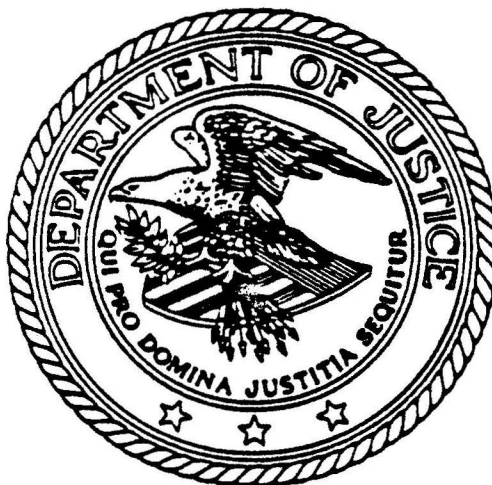
BROOKS, JACK, CONGRESSMAN

THE ENTIRE DOCUMENT PACKET FOR THE CONTROLLED
CORRESPONDENCE INDICATED BY THE ABOVE EX.SEC.
CONTROL NUMBER HAS BEEN FILED IN THE FOLLOWING
PRIMARY FILE LOCATION WITHIN THE SUBJECT FILES
OF THE ATTORNEY GENERAL.

PRIMARY FILE: OFFICE OF INSPECTOR GENERAL

7 December 1992

DOJ EXECUTIVE SECRETARIAT CROSS-REFERENCE RECORD



CONTROL NUMBER: 92122818082

GLENN, JOHN, SENATOR

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PRIMARY FILE: OFFICE OF INSPECTOR GENERAL

21 December 1992

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DOCID: 70106664

AMERICAN
OVERSIGHT

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: STARR, KENNETH W., SOLICITOR GENERAL
To: AG. ODD: NONE
Date Received: 11-09-92 Date Due: NONE Control #: X92111316467
Subject & Date
08-25-92 NOTE PROVIDING SEVERAL POINTS ON A "GLOBAL" SPEECH
ABOUT LAW REFORM GEARED TO GENERAL AUDIENCES.

(NOTE: REC'D FROM OAG ON 11-09-92.)

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;FILES	11-13-92	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1S
	INTERIM BY:			DATE:		OPR:
	Sig. For:	NONE		Date Released:		MAU

Remarks

Other Remarks:

OLA CONTACT:

FILE: OFFICE OF THE SOLICITOR GENERAL

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

25 AUGUST 92



U.S. Department of Justice
Office of the Solicitor General

Washington, D.C. 20530

August 25, 1992

Note for the AG:

My thought is this: a "global" speech about law reform geared to general audiences. The points would be these:

-- Much has been done to rearm our criminal justice system. At the same time, we have been laboring for years to accomplish much-needed reforms but have been stymied at every turn. (Herein of exclusionary rule, habeas corpus reform, etc.)

-- Likewise, this Administration has taken the lead in trying to bring about reforms of the justice system that will make our system of civil justice more accessible and less expensive for the American people and in the process help America's competitive position in an increasingly competitive global economy. (Herein the materials put together by Stu Gerson's shop).

--- Specifically, we have called for more accessible, less expensive courthouses that decide disputes quickly and inexpensively, rather than over 50 cents of the lawsuit dollar going into the pockets of lawyers. (Multidoor courthouse.)

--- Likewise, we need to bring greater fairness to the way litigation is financed in this country. (Herein of the English rule, now called of course the Fairness rule).

--- So too, we need to throw quacks out of the courthouse by shaping up the requirements for expert testimony. (Stu can supply the most up-to-date horror stories; plus Peter Huber's critique of junk science continues to be a reservoir of useful information.)

--- Runaway punitive damages awards need to be brought under control. The problem of unpredictability of those awards drives up settlement costs eating at America's competitive core.

(For audiences in Texas, we can use Tex Lezar's materials summarized in his Wall Street Journal OpEd piece last week on "Justice for Sale in Texas." In California, we can use the recently published report on competitiveness, chaired by Peter Ueberroth, which tracks closely the conclusions of the Competitiveness Council's Agenda for Reform. For audiences elsewhere, we can pull specific examples from Stu's and the VP's materials.)

-- Overall, we have an ambitious agenda for law reform. But who is standing in the door blocking these much-needed changes? First and foremost, the trial lawyers. (Develop points about the trial lawyers PACs, including the tell-tale statements by Texas plaintiffs' lawyers that "we bought the Texas Supreme Court.") Second, the Judiciary Committees of Congress. They have stymied important criminal justice reforms for 12 years and now they're using the same old tired tactics against making our civil justice system responsive to America's needs for the 21st Century.

Anyway, this is a very rough cut at developing a simple idea - law reform should be seen as a whole, courthouses and lawyers should serve the people rather than enriching a privileged class (we not only have a substantial percentage of the world's lawyers, but we have the overwhelming majority of rich lawyers), and the time has come for the justice system -- both criminal and civil -- to be recaptured by the people, rather than being controlled by special interests standing in the way of real justice.

A handwritten signature in black ink, appearing to be 'Ker' or similar, with a long, sweeping stroke extending upwards and to the right.

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NARA (RD-F)
02-05-2019
FOIA # 60048
(URTS 16452)
DOCID:
70106666

AMERICAN
OVERSIGHT

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: LOVE, MARGARET C., PARDON ATTORNEY

To: AG.

ODD: NONE

Date Received: 10-28-92 Date Due: NONE

Control #: X92102815745

Subject & Date

10-27-92 MEMO TRANSMITTING THE ANNUAL REPORT OF THE OFFICE
OF THE PARDON ATTORNEY FOR FY 1992.

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;	10-28-92	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1
	INTERIM BY:			DATE:		OPR:
	Sig. For:	NONE		Date Released:		MAU

Remarks

INFO CC: DAG, JMD.

(1) FOR INFORMATION.

Other Remarks:

OLA CONTACT:

FILE: PARDON ATTORNEY
J921028 4355

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

27 OCTOBER 92



U.S. Department of Justice

Pardon Attorney

Washington, D.C. 20530

MEMORANDUM

OCT 27 1992

TO: William P. Barr
Attorney General

FROM: Margaret C. Love
Pardon Attorney

SUBJECT: Annual Report - FY 1992

Transmitted herewith is the annual report of the Office of the Pardon Attorney for fiscal year 1992. As indicated therein, at the beginning of the year 289 petitions for clemency were pending. An additional 174 pardon petitions and 205 commutation petitions were received in FY 1992. During the year the President made no grants of clemency, and denied 121 applications. Seventy-one cases were closed administratively by the Pardon Attorney. At the close of FY 1992, 476 clemency petitions were pending: 41 petitions were awaiting final action in the Office of White House Counsel (22 with a favorable recommendation and 19 with a denial recommendation); 213 petitions were awaiting action in the Office of the Deputy Attorney General (12 with a proposed favorable recommendation and 201 with a proposed denial recommendation); and 222 petitions were still being processed in this office.

In addition to the clemency caseload, the office handled a substantial volume of correspondence in FY 1992, involving over 7,000 responses to case-related and miscellaneous inquiries regarding the clemency process. The office also prepared 57 formal responses or reports in connection with the Freedom of Information and Privacy Acts; 43 responses to inquiries from Members of Congress addressed directly to the Pardon Attorney; and 1,432 responses to White House and Executive Secretariat-controlled communications.

A significant accomplishment in 1992 was the completion of a survey of state laws and policies on the collateral consequences of criminal conviction, including the loss of firearms privileges. The survey should be of substantial assistance not only in connection with this office's work, but also to state and federal authorities with operational and policy responsibilities in the fields of law enforcement, corrections and clemency.

ANNUAL REPORT
OFFICE OF THE PARDON ATTORNEY
FISCAL YEAR 1992

There were 289 petitions for various forms of Executive clemency pending at the close of business on September 30, 1991. During fiscal year 1992, 379 petitions were received, making a total of 668 petitions for consideration. The President denied 121 clemency applications, and 71 cases were closed administratively. A total of 476 petitions was pending at the close of business on September 30, 1992.

Broken down, the above figures appear as follows:

	<u>Pardons</u>	<u>Commutations</u>	<u>Total</u>
Pending 10/1/91	180	109	289
New petitions received	<u>174</u>	<u>205</u>	<u>379</u>
Total for consideration	354	314	668
Petitions granted	0	0	0
Petitions denied	45	76	121
Petitions closed administratively	<u>40</u>	<u>31</u>	<u>71</u>
Total pending 10/1/92	269	207	476

Selected Correspondence figures follow:

	<u>FY 1992</u>
White House and Executive Secretariat referrals answered	1,432
Congressional inquiries addressed directly to OPA answered	43
FOI/PA requests answered, referrals made and reports submitted	57